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Ministry
of the
Attorney
General

Annual
Report
1974-75

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Ministry
of the
Attorney
General

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Annual
Report
1974-75

The Honourable R. Roy McMurtry, Q.C.
Attorney General

F. W. Callaghan, Q.C.
Deputy Attorney General



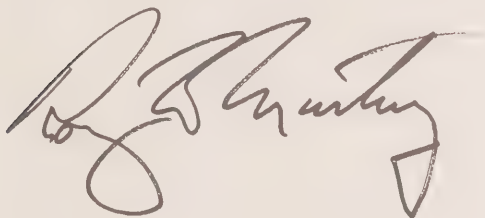
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To Her Honour the Lieutenant Governor
in Council

May it please Your Honour:

It is my pleasure to present to your Honour
the Annual Report of the Ministry of
the Attorney General.

A handwritten signature in dark ink, appearing to read 'R. Roy McMurtry'. The signature is fluid and cursive, with a large loop at the end.

The Honourable R. Roy McMurtry, Q.C.
Attorney General



February 24, 1976

The Honourable R. Roy McMurtry, Q.C.
Attorney General
18th Floor, 18 King Street East
Toronto, Ontario

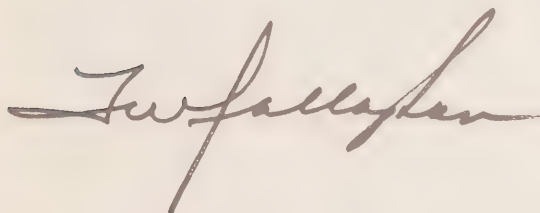
Dear Sir:

I have the honour to submit to you the first Annual Report of the Attorney General for the Province of Ontario pursuant to the provisions of section 7 of the *Ministry of the Attorney General Act*, R.S.O. 1970, c. 116 as amended by S.O. 1971-72, c. 1, s. 9 (previously entitled *The Department of Justice Act*).

Section 7 first appeared in the legislation in the Statutes of Ontario for 1968-69. Although various reports relating to ministerial operations have been submitted from time to time, it has been determined that no Annual Report has been submitted by any former Attorney General.

This, then, is the first Annual Report. Undoubtedly improvements in content and in the style of presentation will be made in future Annual Reports. However, this Report was compiled by many devoted people in your Ministry, in a period of intense activity. I would not want this opportunity to pass without saying how much I have appreciated their loyalty, support and tireless energy.

All of which is respectfully submitted,

A handwritten signature in dark ink, reading "F. W. Callaghan". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

F. W. Callaghan
Deputy Attorney General

Attorneys General of the Province of Ontario 1867-1975



Hon. Adam Crooks, Q.C.
1871-1872

Hon. Oliver Mowat, Q.C.
1872-1896

Hon. A. S. Hardy, Q.C.
1896-1899



Hon. John M. Gibson, Q.C.
1899-1904

Hon. F. R. Latchford, K.C.
1904-1905

Hon. J. P. Whitney, K.C.
1905

Hon. J. J. Foy, K.C.
1905-1914



Hon. I. B. Lucas
1914-1919

Hon. W. E. Paney
1919-1923



Hon. W. F. Nickle
1923-1926

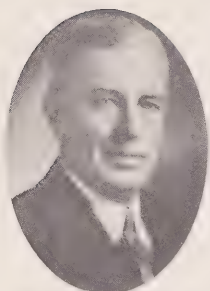
Lt. Col. The Hon. William H. Price, K.C.
1926-1934



Hon. Arthur W. Roebuck, K.C.
1934-1937



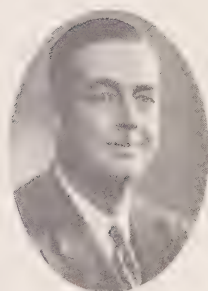
Hon. Paul Leduc, K.C., LL.M., LL.D.
1937



Hon. Gordon D. Conant, K.C.
1937-1943



Hon. Eric W. Cross, K.C., M.A.
1943



Hon. Leslie E. Blackwell, K.C.
1943-1949



Hon. Dana H. Porter, Q.C., LL.D.
1949-1955



Hon. A. Kelso Roberts, Q.C., LL.D.
1955-1962



Hon. Fred M. Cass, Q.C.
1962-1964



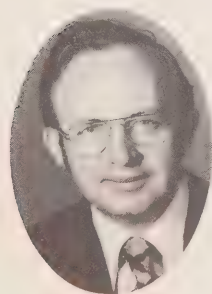
Hon. A. A. Wishart, Q.C.
1964-1971



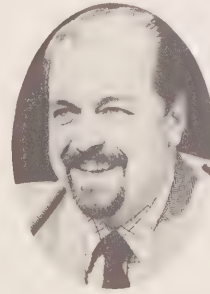
Hon. Allan F. Lawrence, Q.C.
1971-1972



Hon. Dalton A. Bales, Q.C.
1972-1974



Hon. Robert Welch, Q.C.
1974-1975



Hon. John T. Clement, Q.C.
1975



Hon. R. Roy McMurtry, Q.C.
1975

The Office of the Attorney General

Historic Independence of the Office

The Attorney General, holder of an office which has existed in Canada since 1769 and in England since the 13th century, is unique among ministers of the Crown. Although he must function politically in administering a major government ministry he must be above all political considerations in the exercise of his responsibilities as attorney to the Queen. As the Honourable James McRuer wrote in his *Inquiry into Civil Rights*:

The Attorney General must of necessity occupy a different position politically from all other Ministers of the Crown. As the Queen's Attorney, he occupies an office of judicial attributes and in that office he is responsible to the Queen and not responsible to the Government. He must decide when to prosecute, when to discontinue a prosecution. In making such decisions, he is not under the jurisdiction of the Cabinet, nor should such decisions be influenced by political considerations. They are decisions made as the Queen's Attorney and not as a Member of the Government of the day.

This independence of the Attorney General was so strongly stressed in England that until recent times it was considered inappropriate for him to be even a Member of Parliament, much less a member of the Cabinet. In Canada, however, since the 1850's, it has been felt that membership in the Cabinet is essential if the Attorney General is to be head of an administrative department. As a Cabinet minister and member of the Assembly, the Attorney General is in all matters ultimately answerable to the legislature, but in matters relating to criminal prosecutions, he is open to questioning and censure only after the termination of any particular criminal proceedings. Any suggestion of political pressure in relation to the administration of criminal justice would be abhorrent to the most fundamental constitutional precepts.

Protection of Civil Rights

This barrier between the Attorney General and politics is somewhat less rigid when he is serving as legal adviser to the government in non-criminal matters. Even here, however, he must be constantly aware that the public depends on him for protection from legislative invasion of civil rights. Accordingly, in advising on legislation, the Attorney General must ensure that government policy and political considerations are secondary to the trust that he holds for the public at large. This general duty to the public also includes representation of the Crown in the courts in all matters in which rights of a public character come into question. These include cases involving charities or persons of unsound mind, and those cases of a public nature where the use of the Attorney General's name is necessary to maintain an action, as in cases to abate a public nuisance.

Specific Functions and Duties

In Ontario, the specific functions and duties of the Attorney General may be considered under the following headings:

- 1) Supervision of the Machinery of Justice;
- 2) Supervision of Law Enforcement;
- 3) Supervision of Government Litigation;
- 4) Supervision of Legislation.

Supervision of the Machinery of Justice

In broad outline, supervision of the machinery of justice involves the administration of Ontario Courts, the appointment and supervision of the staff necessary for the administration of justice, the supervision of Crown Attorneys, the Public Trustee, the Official Guardian and the Accountant of the Supreme Court, and all matters connected with judicial offices. In addition, the Attorney General is responsible for recommending the appointment of judges to the Provincial Courts (Family and Criminal Divisions), and provincial Small Claims Court judges.

Supervision of Law Enforcement

Directing the prosecution of criminal cases remains one of the most important historic and traditional duties of the Attorney General. This is to be distinguished from the investigation and policing aspects of law enforcement, including the supervision of the Ontario Provincial Police, which is now the responsibility of the Solicitor General. This division of duties helps to ensure a judicial approach to the exercise of the Attorney General's unique and absolute prosecutorial discretion. All prosecutions on behalf of the Crown are conducted by or are subject to the supervision of agents of the Attorney General. In the past, it was the practice in this province to appoint special counsel to prosecute for each session of the courts; at present, almost all trials are taken by salaried Crown Attorneys whose duties as the Attorney General's agents are defined by statute.

Supervision of Government Litigation

Civil litigation on behalf of the government or government agencies covers a wide field ranging from tort law to involved matters of judicial review of decisions of tribunals and difficult questions of constitutional law. Lawyers in the civil litigation branch of the Ministry of the Attorney General represent the interests of the province and of various other ministries of government in such disputes.

Supervision of Legislation

The Attorney General is specifically charged by statute with a duty to advise the government upon all matters of law connected with legislative enactment, and to superintend all government measures of a legislative nature. He has the further duty of advising the heads of the ministries and agencies of the government upon all matters of law connected with their affairs.

In performing these duties, the Attorney General employs legislative counsel, who

prepare draft legislation to implement ministerial programmes. Further, all lawyers in the legal department of the various ministries are in the employ of the Attorney General, but are seconded to those ministries. This helps to maintain the lawyers' independence from the operating necessities of particular ministries, thus ensuring that the legal opinions which guide government action are given from positions of objective neutrality.

In addition to the broad responsibilities of supervising all government legislation which he bears as chief law officer of the Crown, the Attorney General has the specifically delegated duty to administer certain statutes of Ontario. In this area, the Ministry staff functions much as departmental solicitors in every ministry, developing and adjusting legislative programmes for Cabinet approval.

The Attorney General fulfils these wide-spread responsibilities through the staff of the Ministry of the Attorney General. Directed by the Deputy Attorney General, the Ministry has specialized divisions dealing with each of the Attorney General's functions. This Annual Report details the activities of the Ministry for the 1974-75 fiscal year.

Courts in Ontario

The Role of the Courts

Function

The basic function of a court system in a civilized society is the impartial adjudication of disputes without resort to violence. As part of the institutional framework for the peaceful resolution of conflicting interests, the courts of law stand at the pivotal point of the scales of justice, ready to apply the rule of law to the issues between the parties coming before them. They represent the replacement of the naked power of force by the authoritative power of reason, knowledge, wisdom and experience.

The courts form the heart of the legal system in Canada. The legislatures are the primary policy-makers, but the courts have both an adjudicative role in determining facts and declaring the legal consequences of such facts and also a limited policy role in interpreting the broad rules established by the legislatures. The combination of these roles is what is usually termed the exercise of judicial power; the product is what is referred to as "justice". The quality of justice is dependent on both the quality of the persons appointed to be judges to perform these combined roles and the legal institutions called courts in which they function.

In Ontario, the Attorney General is responsible for the establishment and administration of all courts, civil and criminal. As well, he appoints the members of the Provincial Courts, Criminal and Family Divisions, and the Small Claims Courts.

Courts with Civil Jurisdiction

There are three levels of trial courts in Ontario with jurisdiction over civil matters. At the lowest level are the Small Claims Courts. In broad terms, the jurisdiction of these courts is determined by monetary levels, subject matter and territorial considerations. The province is divided territorially into 133 Small Claims

Court divisions. A separate Small Claims Court, complete with administrative offices and staff, is maintained in each division.

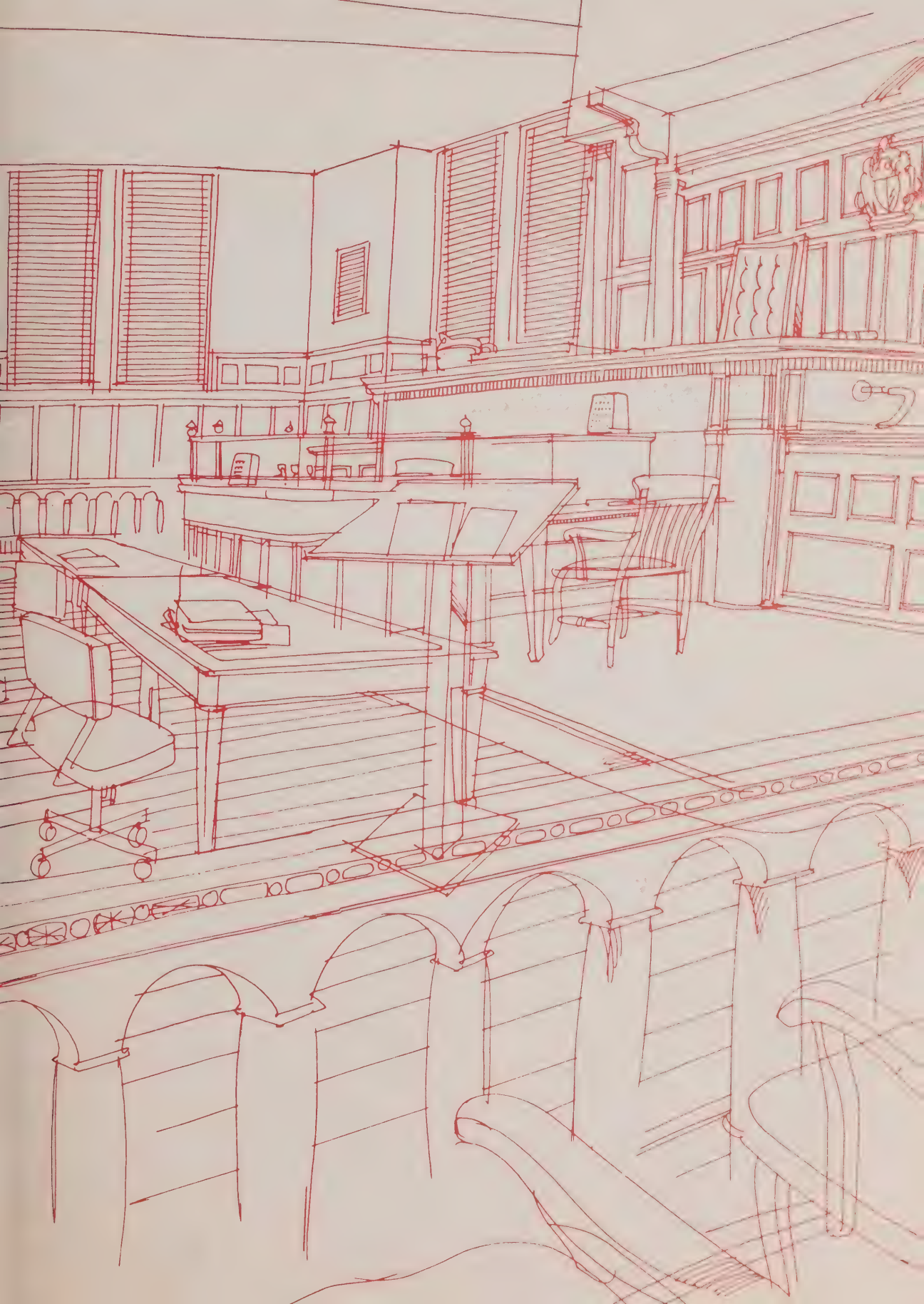
Jurisdiction

These courts have jurisdiction to adjudicate most civil disputes where the amount claimed does not exceed \$400, although certain more serious cases, such as those involving the recovery of land or defamation of character, must be brought in the higher courts regardless of the amount in dispute. In northern districts, where large distances add to the cost of appearing in the more widely dispersed higher courts, this monetary limit is set at \$800 to promote greater use of these convenient courts.

Informality

The purpose of the Small Claims Courts is to provide a forum for the quick, informal and inexpensive adjudication of disputes over small monetary amounts. For example, to commence an action, the plaintiff need only set his claim out informally in a statement which the court staff will deliver to the defendant. The complicated pleadings of the higher courts, which usually entail the expense of hiring legal counsel, are avoided. Jury trial is not available in the Small Claims Courts, nor is it necessary for a person's representative to be a lawyer. The judge is directed to dispose of all disputes in a summary manner, without strict regard to formality. Generally, an appeal to the Divisional Court of the High Court of Justice can be taken from Small Claims Court judgments only where the amount in dispute is greater than \$200. Consequently, expensive appeals are precluded where small sums are at stake.

The Small Claims Courts are, for the most part, presided over by County Court judges. In some instances, this function is performed by special Small Claims Court judges appointed by the province.



Courts in Ontario

County and District Courts

The County and District Courts constitute the intermediate level of trial courts with civil jurisdiction in Ontario. There is a County Court in each county, and a District Court in each of the northern districts. Generally, these courts have jurisdiction to hear disputes over any amount of money, but, where the amount in dispute exceeds \$7,500, the defendant may have the action transferred to the High Court. As in the case of the Small Claims Courts, the County Court has no jurisdiction to hear certain cases, such as suits for libel. The procedure in these courts, like that in the High Court, is much more formal and complex than that used in the Small Claims Courts. Persons rarely appear without legal counsel, and in many cases, either party may require trial by judge and jury. Any party may appeal a judgment of a County or District Court to the Ontario Court of Appeal.

Sittings of these courts are held on a regular basis in each county and district. They are presided over by a County or District Court judge, of which there are 105 in the Province, including one Chief Judge. These judges are appointed to office by the federal government.

Supreme Court of Ontario

The highest civil court in the province is the Supreme Court of Ontario, which consists of three divisions: the High Court of Justice, which is the trial division; the Divisional Court, of the High Court, which has jurisdiction to hear certain appeals; and the Ontario Court of Appeal, which hears only appeals, and is the highest court in the province.

The High Court consists of the Chief Justice of the High Court and 31 other Supreme Court judges, all appointed by the federal government. Its primary function is to try the more important civil and criminal matters in the province. It is not subject to supervisory control by any other court, except by due process of appeal to the Court of Appeal and the Supreme Court of Canada.

Superior Court Jurisdiction

The High Court possesses an inherent jurisdiction which is derived not from statute or from common law, but from its very nature as a superior court of law. This inherent jurisdiction includes the power to punish for contempt, to enforce its own orders and judgments, and to supervise and review proceedings of inferior courts and many statutory tribunals. This inherent jurisdiction also involves residual powers on which the court may draw to protect the rights of the individual, and to give a remedy where the individual has been deprived of certain rights to which he is entitled. As a superior court of record, the High Court has both civil and criminal jurisdiction. It has virtually unlimited jurisdiction in civil matters, except to the extent that jurisdiction is taken away in unequivocal terms by statutory enactment. With certain exceptions, any party before this court may demand a trial by judge and jury. Most actions, however, are disposed of by a judge alone. An appeal to the Court of Appeal lies from all trial judgments of this court.

The High Court sits continuously in Toronto from September through June. Periodically, and at least twice a year, judges of the High Court hold sittings in each county and district in the province.

The Divisional Court

The Divisional Court was created in 1972 by provincial statute as a division of the High Court of Justice. It consists of the Chief Justice of the High Court and such other judges of the High Court as he designates. The Court sits continuously in Toronto from September through June, and periodically in other major centres across the province. A panel of three judges is required to hear all matters over which the court has jurisdiction. This jurisdiction, defined by *The Judicature Act*, includes appeals from final judgments or orders of the Master, and with leave, from interlocutory judgments or orders of a judge of the High

Court. The Court also has jurisdiction to hear appeals from the decisions of most statutory tribunals other than courts of law.

Court of Appeal

The Court of Appeal for Ontario, the appellate division of the Ontario Supreme Court, is the highest court in the province. It consists of the Chief Justice of Ontario and thirteen other justices of appeal, all appointed by the federal government. The court sits only in Toronto; it hears appeals from judgments of the High Court of Justice and the County and District Courts. In certain limited cases, an appeal lies as of right from this court to the Supreme Court of Canada.

Surrogate Court

The Surrogate Court has jurisdiction generally in matters relating to the estates of deceased persons. It is presided over by a judge appointed by the provincial government, which in Ontario appoints County and District Court judges (federal appointees) to this position. Certain contentious issues arising in this court may be transferred to the High Court, which has concurrent jurisdiction in some matters. An appeal from judgments of this court lies to the Court of Appeal.

Provincial Court (Family Division)

A Provincial Court (Family Division) exists in each county and district in the province. All judges of this court are appointed by the government of Ontario. The court has broad jurisdiction in family matters (other than divorce) conferred on it by various statutes of Ontario. In addition to dealing with the obligations of parents toward each other and toward their children, this court is primarily responsible for the trial of juveniles (persons under 16 years of age) who are charged with breaches of the criminal law.

Courts with Criminal Jurisdiction in Ontario

Provincial Court (Criminal Division)

The Provincial Courts (Criminal Division), presided over by judges appointed by the Ontario government, have jurisdiction to try persons charged with most offences created by the *Criminal Code* and other federal statutes, as well as all offences created by provincial legislation. Proceedings before this court, before a judge without a jury, are usually summary in nature. The vast majority of trials for indictable offences (over 90%) are held in this forum. In addition, the Provincial Court judge holds preliminary hearings in criminal cases to be tried in the higher courts.

County Court Judges Criminal Court and General Sessions of the Peace

A person accused of an indictable offence which is not in the absolute jurisdiction of a judge of the Provincial Court and not one customarily tried before the High Court of Justice may elect to be tried before either a County or District Court judge sitting either alone or with a jury. Where the judge sits alone, this court is known as the "County or District Court Judges Criminal Court"; where the judge sits with a jury, the court is known as "The Court of General Sessions of the Peace." Both courts exist in every county and district in Ontario.

Supreme Court

The High Court of Justice has jurisdiction to try any indictable offence. All criminal trials in this court are heard by a judge of the High Court, sitting with a jury. The vast majority of offences tried in this court are the most serious offences, including murder, manslaughter, criminal negligence and rape.

Courts in Ontario

Court of Appeal

In Ontario, appeals may be taken to the Court of Appeal for Ontario by persons convicted of indictable offences as of right in certain circumstances and only with leave of that court in others. Similarly, in some circumstances, an appeal may be launched by the Attorney General for the province against the acquittal of a person accused of an indictable offence. These circumstances are set out in the Criminal Code. Those persons convicted of summary conviction offences, created either by federal or provincial statutes, may appeal either by way of a stated case to the Supreme Court of Ontario or by way of a new trial in the County or District Court, and in each instance thereafter to the Court of Appeal with leave of that court on a question of law.

Court Accommodation

History of Problem

The problem of inadequate court facilities pre-dates Confederation. The situation in the Town of York in 1815, before the City of Toronto was incorporated, is described by a leading authority as follows:

In 1815 the courts met in hopelessly inappropriate and unsatisfactory quarters.

The jail was a dilapidated log building erected in 1798, in which the extraordinary discomfort of the prisoners made up for the ease with which they escaped.

Indeed, in 1815 the Lieutenant Governor of Upper Canada wrote to the Colonial Secretary:

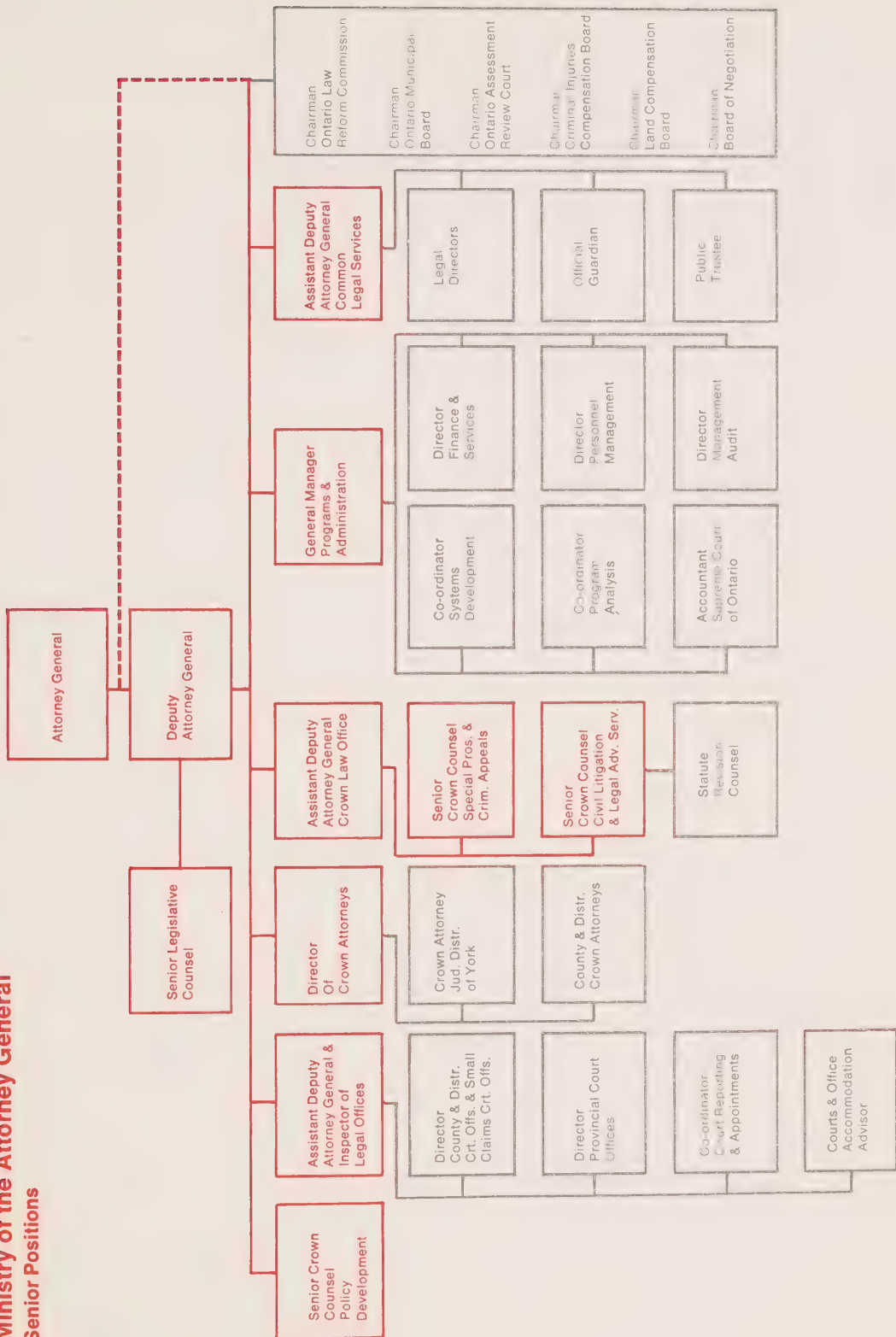
I find, by my last letters from Upper Canada, that such was the distress for a place to assemble the Court of Kings Bench, that it was apprehended, the Chief Justice would be obliged to hold the sittings in a Tavern.

Increasing Volume

There is no doubt that the volume of civil and criminal litigation is increasing greatly in the province and that greater and more varied use must be made of court facilities. Furthermore, it is quite clear that this trend will continue. The provision of adequate court facilities is falling behind. In a time of budgetary restraint, this is understandable, but the problem is becoming serious. When facilities become overtaxed, there may well be a decline in the quality of justice.

The Ministry of the Attorney General, together with the Ministry of Government Services, is continuing to plan for the provision of adequate facilities to meet the legitimate needs of the courts of this province. This plan involves innovative measures to ensure the maximum utilization of existing facilities while at the same time charting future needs by way of construction and renovation.

Ministry of the Attorney General Senior Positions



The Ministry of the Attorney General

Policy Development Division

Archie G. Campbell, Senior Crown Counsel

Established

The Policy Development Division of the Ministry was created in late 1972 in response to the proposal by the Committee on Government Productivity that there be a "separation of policy-making and programme delivery within ministries".

From its inception in 1972 until March of 1975 the Division was under the direction of an Assistant Deputy Minister and included the Systems Development Branch, the Management Information Systems staff, and the Central West Developmental Project staff. At present the Division, which consists of Senior Crown Counsel, three lawyers and three articling students, reports to and is under the direct supervision of the Deputy Attorney General.

Present Duties

Briefly stated, the present duties of this Division include:

- (i) research into and analysis of all aspects of the administration of justice in Ontario;
- (ii) continual review of the approximately 130 statutes administered by the Ministry (see Appendix), initiating proposals for reform and analyzing suggestions for reform from the general public, other ministries and members of the Legislature.
- (iii) developing the legislative programme of the Ministry commencing with discussion of suggested legislation with senior staff within the Ministry, proceeding to the preparation of Ministry policy submissions outlining the problem and setting out and evaluating the range of government options for discussion and decision-making by the Justice Committee of Cabinet and by Cabinet, and concluding with the creation, in

conjunction with Legislative Counsel, of draft Bills reflecting Cabinet decisions;

- (iv) advising the Attorney General and Deputy Attorney General during the legislative progress of a Bill, which generally involves attendance at the Legislative Assembly with the Attorney General to be available to advise him about the Bill and assist him in answering detailed technical questions which may arise during debate.

The Division is also responsible for the Ministry library which provides service to the Crown Law Office and approximately fifty field offices.

Relationship With Other Organizational Units

To discharge its responsibilities the Division must have close relationships with a number of organizational units both within the Ministry and independent of it.

Relationship to Crown Law Office

There is a constant liaison with and co-operation between the Division and the Crown Law Office. Although the type of research conducted by the Division for the policy analysis of socio-legal issues and the development of legislation is often different from the legal research carried out by the Crown Law Office for presentation in court or for providing legal opinions to other ministries, there are numerous occasions where duplication of effort is avoided through the close relationship. Some projects requiring existing expertise are jointly conducted.

Relationship to Ontario Law Reform Commission

The Ontario Law Reform Commission is independent of the Ministry. Commission projects usually require major background legal research beyond both the resources of the Division and the decision-oriented purpose

for which the Division was created. Commission Reports frequently advocate adoption of a specific policy without detailed discussion of all possible alternatives for government action. Submissions to Cabinet from the Ministry based on Commission reports require the exploration of the full range of viable government options with their relative advantages and disadvantages in light of current government policies and priorities. Co-operation between the Ontario Law Reform Commission and the Policy Development Division in making Commission research material available obviates needless duplication of effort.

There is constant demand for interaction with other ministries and Policy Fields, the federal Ministry of Justice, and with semi-public associational groups. This involvement enables the Division to keep abreast of activities and proposals which may have ramifications with respect to the administration of justice in the province.

Examples of Activity

Legislative

Legislation which has involved the preparation of policy submissions by the Division includes:

- (i) The Juries Act, 1974;
- (ii) The Public Institutions Inspection Act, 1974;
- (iii) The Elections Amendment Act, 1974;
- (iv) The Municipal Elections Amendment Act, 1974;
- (v) The Executions Amendment Act, 1974;
- (vi) The Lord's Day (Ontario) Amendment Act, 1974;
- (vii) The Judicature Amendment Act, 1974;
- (viii) The Family Law Reform Act, 1974 (Bill 117)

Summary Convictions Act Review

A complete review of Ontario summary conviction law and practice has been undertaken in order to develop a new code of

provincial summary conviction procedure. The objectives of this procedure are to simplify the entire legal process for the public, and to increase its convenience to the public. Under study are the introduction of new procedures to reduce the amount of time spent in court by witnesses and accused, reduce court workload generally, and relieve against the present procedures which involve imprisonment of an accused who is financially unable to pay a fine.

Family Law Review

The Family Law Reform Act (Bill 117) is the first step of an ongoing project of family law review. Involved is an examination of the reports of the Ontario Law Reform Commission and reports and statutes from a great number of common law jurisdictions with a view to substantial revision of family law in Ontario (see Special Projects for Family Property Law Project).

Review of Report by Task Force on Legal Aid

The Division has been given responsibility for developing Ministry response to the recommendations of the Osler Report on Legal Aid in light of existing government resources.

Crown Law Office

Clay M. Powell, Q.C., Assistant Deputy Attorney General

Responsibilities

In Ontario, it is through the Crown Law Office that the Attorney General fulfils his constitutional responsibilities as counsel to the Queen. Comparable in size to a large law firm (thirty-three lawyers are now on staff), the responsibilities of the Crown Law Office range from the prosecution of complex fraud cases to the pleading of involved constitutional law issues.

The Ministry of the Attorney General

Briefly stated, the duties of this office include:

- (i) directing the conduct of special prosecutions, criminal appeals and civil litigation on behalf of the Crown in Right of Ontario;
- (ii) providing all Ontario government ministries and agencies with a full range of general and specialized legal services;
- (iii) providing counsel for Her Majesty in Right of Ontario in important civil and criminal cases;
- (iv) advising and guiding law enforcement agencies in matters involving investigations and prosecutions; and
- (v) furnishing legal opinions to ministries and agencies of the government in constitutional, civil and criminal matters.

To provide the wide array of services, the Crown Law Office is divided into the Criminal Appeals and Special Prosecutions Branch and the Civil Litigation and Legal Advisory Services Branch, each of which is headed by a Senior Crown Counsel.

Criminal Appeals and Special Prosecutions

Roderick M. McLeod, Senior Crown Counsel

Composition

This Branch is comprised of sixteen lawyers — all specialists in the field of criminal law — to represent and advise the Crown in criminal litigation.

Main Function

One of the main functions of this Branch is to appear on behalf of the Crown on appeals and motions in both indictable and summary conviction matters in the Supreme Court of Ontario and the Supreme Court of Canada. Appeals in indictable matters in the Court of Appeal require the largest amount of time and manpower, although appearances on original pre-trial show cause hearings in murder cases,

pre-trial bail review hearings, release pending appeal hearings and contested motions and summary conviction appeals in Weekly Court and Chambers require daily attendances in the Supreme Court of Ontario.

Increasing Volume of Appeals

Traditionally, the Ontario Court of Appeal has heard criminal matters two weeks of each month. The volume of cases has now increased to the point where the Court has been sitting for three weeks, and on occasion, four weeks per month. The Court hears an average of twenty to twenty-five cases per week. Through May and June, the sittings of the Court were extended to the point where criminal matters were being heard virtually every week. An increase in volume of cases argued also occurred in September and October notwithstanding the fact that in the summer of 1974, the Court sat for two weeks in July in addition to its usual sitting during the first week of August. The volume of appeals by accused persons represented by solicitors, by accused persons in person and in writing and by the Crown increased during the year ending March 31st, 1975, but this ever-increasing workload has been adequately handled by the members of this Branch without sacrificing the high standard of quality of representation that is expected of them. The volume of outstanding appeals as of March 31st, 1975, therefore, remains approximately the same as it has been in recent years.

Other Court Appearances

Court appearances by lawyers in this Branch in matters pursuant to the *Bail Reform Act* have increased considerably. Two lawyers are now usually required daily to handle pre-trial release, review and release pending appeal matters.

Weekly Court and Chambers matters include mandamus, prohibition, certiorari and habeas corpus applications, stated case appeals and *Juvenile Delinquents Act* appeals. These matters require one lawyer at least three days



The Ministry of the Attorney General

a week. The volume often fluctuates to the point where two or three lawyers may appear in Weekly Court or Chambers on two or three occasions in a week.

Applications for leave to appeal and appeals in the Supreme Court of Canada require a minimum of one lawyer every two weeks on the days when applications for leave to appeal to that Court are heard. When those applications are granted, more lengthy subsequent appearances are, of course, required for the hearing of the appeal.

Wiretap Applications

Since July 1st, 1974, members of the staff of this Branch have, as designated agents of the Attorney General, reviewed police requests for wiretap authorization applications and, in the appropriate cases, have made such applications to Supreme Court judges. These applications, although not large in number thus far, are very time-consuming and often urgent. Originally, five lawyers from within this Branch were designated as agents of the Attorney General for this purpose. That number has since been increased to ten. The Attorney General has, by separate report to the Legislative Assembly, reviewed pursuant to the *Criminal Code* the operation of the amendments to the *Criminal Code* in this area for the six months ending December 31st, 1974.

Special Prosecutions

An increasing portion of the workload in this Branch is in the area of special prosecutions, largely in relation to complicated commercial transactions involving allegations of fraud and conspiracy. Expanded specialization in the commercial fraud area by the Metropolitan Toronto Police, the Ontario Provincial Police and the R.C.M.P. has created a very significant increase in the demand for equally specialized prosecutorial assistance. Such assistance is essential not just at the trial or preliminary hearing stage, but in many cases from the very

outset of the investigation as well. Several members of the Branch, having developed particular expertise in this area, devote an increasing part of their time and effort to these very demanding prosecutions.

Advice and Assistance

In addition to this appellate and trial work, the Branch is available at all times to provide advice and assistance to other government departments, local Crown Attorneys and others involved in the administration of justice in Ontario. This assistance may involve the preparation of formal opinions, service on inter-departmental committees or simply the provision of immediate access to an informal expert opinion where it is possible. Enquiries and complaints regarding the administration of justice are also reviewed by this Branch.

Civil Litigation and Legal Advisory Services Branch

Morris M. Manning, Senior Crown Counsel

Composition

The function of this branch — the provision of an independent legal service for all ministries of the government of Ontario — is discharged by the Senior Crown Counsel and a staff of seventeen lawyers and para-legal personnel including the Director of Accident Claims and a number of law clerks and law students. In the past year, every ministry of the government sought the advice and assistance of this Branch in relation to litigation, legal opinions or legislative considerations.

Servicing Other Ministries

As a result of a concerted effort to make other ministries aware of the varied and experienced background of the legal officers, the amount

and nature of the work has been increased and varied. There has also been a recognition by both the bar and the bench of a change in the nature of the legal services performed by this Ministry by reason of the court room experience of those appearing for the Ministry as well as the nature of the work. As a result, morale is high and the Branch's reputation as a competitive legal office has been enhanced.

Increased Volume and Variety

Litigation dealt with by the Branch has increased from previous years in both volume and variety. Its work involved appearances on behalf of the government in civil litigation in Small Claims Court, in the County and Supreme Court trial divisions, and in appeals and applications before the Divisional Court, Court of Appeal for Ontario and Supreme Court of Canada. The subject matter of these ranged from simple motor vehicle accident damage actions to complex questions of constitutional law involving the legislative competence of the provincial legislature. As a result of the addition of more experienced counsel, less legal work than ever before has been referred to outside counsel; the additional experience thus gained by the legal officers is expected to result in a further decrease in the number of cases referred outside.

Constitutional Cases

The number of constitutional law cases undertaken by this Branch has substantially increased within the last year both with respect to those cases where the Ontario government was a party to the proceedings and to those cases in which Ontario intervened where other provincial governments were parties. Some examples of Ontario intervention in the Supreme Court of Canada were: *In Re Natural Parents* which involved the applicability of certain provisions of the provincial *Adoption Act* to Indians; *Morgan v. Province of Prince Edward Island* which dealt with the right of a

province to limit the amount of land that can be held by a non-resident; *John A. MacDonald, Railquip Enterprises Ltd. v. Vapor Canada Limited and Attorney General for Canada, et al.*; *Shellcase Foundries Inc. v. Cercast Inc.* which involved the validity of section 7 of the *Trade Marks Act*; and *Vadeboncoeur v. Landry* which raised the question of the extent to which the provisions of the federal *Divorce Act* overrode the existing provincial law in relation to maintenance and alimony. Judgment was reserved in all of these. In addition, intervention has been filed in the following cases which have not, as of this writing, been heard: *Tomko v. Attorney General of Nova Scotia* which involves the validity of the powers of the Labour Relations Board to issue cease and desist orders; *McNeil v. Nova Scotia Board of Censors* which involves the right of any person to have standing to raise the constitutional validity of any provincial statute; and *Dupond v. City of Montreal* which involves the right of a municipality to pass by-laws regulating activities on municipal property. In addition, there are two cases involving *The Fraudulent Conveyances Act* and the right to control cable television in a province. As well as constitutional cases arising in the Supreme Court of Canada, this branch has also handled constitutional law cases which have arisen at all levels of the courts.

Judicial Review

Under *The Judicial Review Procedure Act*, which came into force in April, 1972, the Ministry has the right to intervene in all matters of judicial review including judicial review of all administrative tribunals and appeals from their decisions. Further, when asked to act on behalf of a ministry responsible for a tribunal or when it is necessary to act on behalf of the Attorney General (in those cases where provincial statutes are being attacked and the attack on the statute will affect more than one particular case), the Branch appears and argues the matters in the Divisional Court.

The Ministry of the Attorney General

Some examples of the cases involving judicial review are as follows: *Raney, Tari* which concerned a review of the propriety of the procedures followed by the qualifications committee of the Ministry of Transportation and Communications and the question of whether a hearing was required for every contractor; *Bamborough v. Ministry of Housing* which involved the adequacy of appraisal reports prepared for the North Pickering Project and which also involved the potential loss to the government of interest payments totalling over one million dollars; *Proc v. Ministry of Community and Social Services* which concerned the welfare payments where persons were living together as spouses; *Taylor v. General Manager of Ontario Health Insurance Plan* which concerned the amount of fees to be paid to doctors out of the province for services rendered to Ontario residents; *Fitzsimmons*, which concerned an appeal from the decision of the Minister of Consumer and Commercial Relations for an order directing him to amend articles of incorporation; *Putnoki v. Public Services Grievance Board* which concerned an interpretation of the powers of Deputy Ministers to act in dismissing employees; *Orangeville Highlands Limited* which concerned the Ministry of Housing and a provincial zoning order to prohibit the use of lands for the purpose of a shopping centre.

In addition to judicial review matters where members of the Branch appeared in the Divisional Court and, where necessary, in the Court of Appeal and the Supreme Court of Canada, this Branch has also had occasion in the past year to appear on judicial review cases in the Federal Court of Appeal.

Claims For and Against the Crown

A very large number of claims for and against the Crown are dealt with continually by the office of the Senior Crown Counsel. These include a great number of motor vehicle accident claims relating to injuries or damage occasioned by vehicles of the Crown, including

the Ontario Provincial Police, the Ministry of Transportation and Communications and all other ministries of government. Crown employees are being continually injured through the actions of others; on their behalf, claims are made against the wrongdoers. Suit has been brought on behalf of the Crown for the recovery of substantial assessments. In addition to appearance at trial in the aforementioned matters, whenever those cases are appealed to the County Court, Court of Appeal or Supreme Court of Canada, members of the Branch appear as counsel for the ministries involved.

Advisory Services Providing Legal Opinions

As the Branch title indicates, legal advisory services are an integral part of the Branch. The Branch is called upon to provide opinions to all ministries of government covering a very wide variety of subject matter. This ranges from constitutional law opinions, whose purpose is to question legislation in existence or proposed legislation, to the interpretation of provincial statutes in order to answer a specific enquiry made by the ministry which administers that statute. These opinions may also be prepared with a view to establishing a position for a ministry in anticipation of litigation or as a result of litigation. Although several lawyers in this Branch concentrate on the preparation of opinions, all lawyers participate in this area of work. Certain kinds of solicitor work are also performed by the Branch from time to time, including advice and assistance to various government ministries in relation to purchases of land, drafting of leases, examining problems of title to lands and negotiating contracts for the acquisition of buildings.

Legislative Advice

Although drafting is primarily the responsibility of the Office of the Legislative Counsel, and the Ministry legislative programme is primarily

the responsibility of the Policy Development Division, this Branch is frequently involved in the preparation of legislation in instances where a change in legislation may be necessitated by reason of a judgment of a court. This requires a constant liaison with the ministries affected by those decisions in order to ensure that the legislative changes conform to judicial pronouncements as well as to the needs of the particular ministry. Each member of the legal staff is assigned a certain number of statutes administered by this Ministry. He or she is expected to recommend necessary changes and to work with the Policy Development Division and with the Legislative Counsel's Office in seeing that those changes are carried out.

Inspector of Legal Offices

Blenus Wright, Assistant Deputy Attorney General

Responsibilities

The Assistant Deputy Attorney General and Inspector of Legal Offices is responsible for:

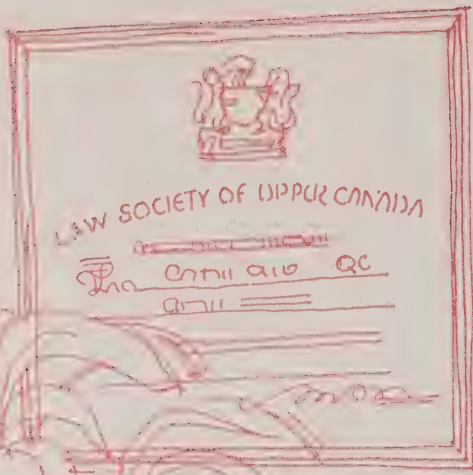
- 1. regulating the appointments of commissioners for taking affidavits, notaries public and justices of the peace;

- 2. provision of court reporting for all courts and supervision of court reporters and special examiners;
- 3. ensuring the provision of adequate administrative services to all courts and Observation and Detention Homes, including direction to sheriffs and court registrars, Criminal and Family Court administrators, Small Claims Court clerks and bailiffs;
- 4. liaison with the Ministry of Government Services and the responsibility for court accommodation;
- 5. development of a management information system;
- 6. maintaining liaison between the Ministry of the Attorney General and the judiciary, and the processing of judicial appointments to the Provincial Courts;
- 7. providing direction to and supervision of the Central West Development Project;
- 8. overseeing the Ministry's interest in the Native Courtworker Programme.

New Organizational Structure

The increased responsibility of the Inspector of Legal Offices in the past few years has necessitated a new organizational structure for this office, as shown in the chart below.





The Ministry of the Attorney General

Director, County and District Court Offices and Small Claims Court Offices

Small Claims Court Offices

The Director, who reports to the Assistant Deputy Attorney General and Inspector of Legal Offices, is responsible for the administration of Small Claims Court offices throughout the province. The staff of these offices exceeds 1000 persons. This involves maintaining the efficient operation of these courts and providing effective service for large volumes of claims, most of which are presented by parties without legal representation. The Director is responsible for the planning and preparation of reports on long term recommendations on the status of the courts, reviewing the needs of sectors served by the courts, exploring implications of conditions of employment of court staff, and ensuring competent replacement staff when vacancies occur. The Director is also charged with investigating complaints regarding the administration of justice in relation to the Small Claims Courts, providing administrative direction as required, advising court officials on procedures, interpreting amendments and up-dating the manual of administration.

New Initiatives Regarding Small Claims Courts

At present, an evaluation of the structure of the Small Claims Courts is underway. A report is being completed which will deal with all phases of the Small Claims Courts and will recommend amendments to *The Small Claims Courts Act*. The first objective will involve reducing the number of courts from the present 133 to 105 by the end of 1976. Plans are also proceeding for the standardization of practice in the Small Claims Courts with particular emphasis on forms, rules and procedures. It is expected that regional seminars will be held to assist the Ministry and the Small Claims

Court clerks and bailiffs to manage these highly specialized offices.

County and District Court Offices

In addition to these duties in the Small Claims Courts, the Director provides administrative direction for County and District Court offices, comprising some 650 officials located in court houses throughout the province. Working with these officials, he develops and implements Ministry policies relating to these courts within the framework of the administration of justice.

Regional Coordinators

An innovative approach is being taken to the office of sheriff and court registrar by the appointment of coordinators for each of the province's six regions. They are responsible individually for:

1. coordinating and supervising the various sheriffs' and local registrars' offices in their region;
2. visiting these offices to review practices and procedures and assist with personnel problems;
3. aiding in the selection and training of new officials and staff;
4. standardizing practices and procedures; and
5. providing consultation and advice to other sheriffs and local registrars.

Collectively, the coordinators are to:

1. meet regularly with the Inspector of Legal Offices to discuss matters relating to sheriffs and local registrars;
2. develop training programmes for officials and staff;
3. develop standard practices and procedures and prepare manuals;
4. publish a quarterly newsletter for the officials; and
5. discuss classifications, salaries and complement.

The overall objectives of this project are two-fold: first, to determine the possibilities for standardization of practices and procedures in

The Ministry of the Attorney General

the offices of sheriffs and court registrars; and second, to develop general procedures for specific functions leading to the production of a manual for officials.

Director, Provincial Court Offices

Functions

Parallel to the Director of County and Small Claims Court Offices, the Director of the Provincial Court Offices provides administrative direction for the operation of all Criminal and Family Court offices in the 95 centres throughout the province, the regular staff of which is in excess of 1,300 persons. Working closely with the Chief Judges of the Family and Criminal Divisions of the Provincial Courts, this office investigates complaints, sets up administrative procedures to initiate and maintain uniform programmes and assumes responsibility for the provision of adequate observation and detention home facilities throughout the province. In addition, the Director maintains cooperative relationships with Ministry branches in areas of mutual concern, including justices of the peace, court reporting, personnel and accounting and audit, and with agencies involved with the Court, including Probation Services and Children's Aid Societies.

Report of the Operations of the Provincial Court (Criminal Division) for the 1974-75 Fiscal Year

Increased Activity

The Provincial Court (Criminal Division) operated during the past fiscal year with a substantially increased level of activity, attributable in some areas to an increased case load and, in others, to the nature of the proceedings. Throughout the year, the Chief Judge continued a review of the schedules of the sittings of the Court and assignment of the cases.

Revised Practices

The increase in population and level of law enforcement in many areas, with the consequent increase in the number of charges, resulted in a substantial re-adjustment in the schedule of the courts and the manner in which the cases were assigned. Working with the Senior Judge in each of the judicial districts to achieve a more efficient processing of charges before the court and to facilitate the setting of trial dates, the Chief Judge has implemented the rationalization of court calendars. Many court sittings which would ordinarily deal with a general list of cases, including criminal, liquor, narcotics, *Highway Traffic Act*, and municipal by-law infractions, have now been subdivided with certain days being devoted to first appearances, pleas of guilty and short trials, while others are dedicated to the trial of general *Criminal Code* offences, narcotics offences and *Criminal Code* driving offences. This, along with other scheduling procedures, has resulted in a better use of judicial time and physical facilities. Additionally, in many instances, the period of time from the date of the offence to the final disposition of the matter has been shortened.

The disposition rate for *Criminal Code* and narcotics offences in relation to the number of judicial personnel has been reviewed. Areas of available judicial time have been identified. This has assisted in the movement of judicial personnel to establish additional sittings in various areas for the trial and/or preliminary hearings of cases which could not readily be accommodated within the ordinary sittings of the court.

Use of Sitting Justices of the Peace

To deal with the increasing caseload, sitting justices of the peace have been involved in the trial of minor liquor and traffic offences and the adjournment and remand of certain criminal matters. These sittings of the justices of the peace, authorized by the provisions of *The Justices of the Peace Act*, are scheduled in addition to those of the Provincial Court judges.

Problem Areas Strain on Resources

The substantially increased caseload and the shortage of judges and competent justices of the peace in some areas has, notwithstanding improvements in scheduling procedures and the use of sitting justices of the peace, resulted in difficulty in providing adequate sittings of the courts when judges are absent for reasons of illness, reasonable vacation, or on special assignments for the trial or preliminary hearing of lengthy cases.

There have been a substantial number of prosecutions arising from public disturbances, the lengthy trials of which have placed a strain on available physical administrative and judicial facilities.

Increasing Complexity of Cases

There were an increasing number of prosecutions under miscellaneous provincial and federal statutes, with some of the matters, such as prosecutions with respect to construction safety, the environment, and combines investigation, occupying many days of court time and requiring many hours of judicial time for the consideration of submissions, research, and the writing of judgments. In addition, there have been a considerable number of special criminal prosecutions by counsel from the Ministry of the Attorney General which have necessitated special assignments of judges, and lengthy trials and preliminary hearings.

Lengthy Trials

There has also been an increase in the number of narcotics offences thereby occasioning an increasing number of lengthy trials and preliminary hearings which have resulted in a substantial use of additional judicial time and the use of additional physical facilities and supporting staff.

There have been many requests for assistance outside Metropolitan Toronto where the judges in the area could not hear cases within

the ordinary schedule of their courts. This necessitated arrangements for relief and special assignments of judges from Metropolitan Toronto in the 1974-75 fiscal year of 189 judge days.

Bail Hearings

Since the implementation of the new provisions of the *Criminal Code* with respect to bail, justices of the peace have been assigned to conduct bail hearings in many areas in order to prevent the Provincial Court judge being disqualified from hearing the trial of the matter by reason of the evidence which might be placed before him on the bail hearing.

In a number of areas, we have endeavoured to develop systems of communication which would facilitate agreed trial dates, thereby eliminating the appearance of counsel on the remand date.

Caseload Control System Postponed

It is the desire of the Chief Judge to develop a caseload control system, coupled with a system for agreed trial dates, in Metropolitan Toronto, but present budget restraints have postponed the development of this concept.

Serving Remote Communities

There has been an increasing demand for the court to attend in remote communities in north-western and northeastern Ontario. This demand has been met in most instances by the scheduling of special sittings of the court as the need arose. In one or two areas, there were problems in attending because of weather conditions and the availability of facilities in which to hold court. Visits have been made to many remote communities in north-western and northeastern Ontario either by the Chief Judge or by another Provincial Court judge, usually accompanied by a Crown Attorney, duty counsel, a representative of the Ontario Provincial Police, and in some cases, an Indian court worker.

The Ministry of the Attorney General

It has been noted that in various communities where a landing strip has been installed, there appears to be an increasing number of criminal charges coming before the courts. In order to meet this need, particular court dates are being set in Fort Albany and Attawapiskat and more frequent trips are being scheduled to various communities in North-western Ontario. In the Thunder Bay area, a sitting justice of the peace has been attending in such locations as Geraldton, Nipigon, and Manitouwadge and some other communities for the trial of provincial statutory offences in order to provide an earlier disposition of these charges and to make more time available for criminal trials.

Other Initiatives

In Metropolitan Toronto, the sittings of the court and the caseloads are under continual review with changes being made when necessary. Traffic and by-law offences, which are now programmed into the CYCLOPS computer, are being studied with a view to achieving speedier dispositions. In the areas where physical facilities are available, additional court sittings have been established in an effort to bring the disposition date closer to the date of the offence. At the present time, the Chief Judge, in consultation with the court administrator, is studying the possible implementation of revised schedules for traffic court sittings in the Old City Hall with the view to endeavouring to establish a programme of four sittings per day. This, as has been learned from the Ministry's experience at the North York Traffic Tribunal (outlined elsewhere in this Report), provides better service to the public and increases the utilization of physical facilities.

Effect of the Ontario Legal Aid Plan

It is clear that utilization of the Ontario Legal Aid Plan by accused persons is increasing. While the Plan greatly aids persons charged with criminal offences, it increases the potential for delay in the administration of justice.

Accused persons do not always make prompt applications for assistance, even though the courts generally allow a three week adjournment for this purpose. Information which the Plan requires before issuing a certificate is not always speedily provided, thus necessitating a further adjournment to permit completion of the application. As well, where persons are jointly charged, it is not uncommon for one or more of them to fail to retain counsel, necessitating further delays before a date for trial can be set.

In some areas, including Metropolitan Toronto, part of the operation of the Plan has been relocated in the Provincial Court building. This improves the Plan's early contact with accused persons, thereby facilitating an early decision by the Legal Aid Office as to whether or not an accused will be granted a certificate under the Plan.

Court Visitations and Area Meetings

In 1974, the Chief Judge attended in a majority of the areas of the province to meet with the provincial judges and their staffs. In addition, he held meetings of the nine Senior Judges, discussed with them the problems in their particular areas, and also distributed to them papers on various legal topics to be used for their Area Senior Judges' meetings. The Area Senior Judges hold these regional meetings to discuss legal matters with the judges in the area and to consider improved scheduling procedures.

At these area meetings, the judges have discussed the substantial effect on court scheduling procedures of members of the Bar not being available for attendance in the Provincial Court (Criminal Division) because of their attendance at sittings of the County or Supreme Courts. The Chief Judge has discussed with the Senior Judges and a number of individual judges the desirability of meeting with the County and District Court judges in their areas in an effort to establish some system of cooperation between the courts to avoid trial dates being set involving the same counsel in



The Ministry of the Attorney General

two different courts for the same period. Cooperation in this area has been increasing.

Judicial Education

University Education Programme

In cooperation with the Provincial Judges Association (Criminal Division), a Provincial Judges University Education Programme has been in effect for two years. This programme allows Provincial Court judges once every three years to live for one week in a university setting, during which time various papers are presented by law professors, judges, Senior Crown Counsel, and defence counsel. Following the presentation of the papers, they are discussed with particular reference to their relationship to the judge's problems in his day-to-day deliberations.

Videotape on Privacy Legislation

In 1974, in addition to the presentation of papers, a committee of the Provincial Judges Association (Criminal Division) and the office of the Chief Judge prepared a videotape of approximately two hours duration dealing with certain fact situations relevant to the new legislation with respect to the protection of privacy. This videotape was supported by research material which was distributed to the judges in Ontario. It has been requested by Provincial Court judges of various other provinces of Canada.

By the end of the 1975 programme, all Provincial Court judges (Criminal Division) will have had the opportunity of attending the University Education Programme. There has been an enthusiastic response to this programme; cooperation from all the persons who have been asked to present papers has been excellent. The papers are printed and are available to all the judges, whether or not they attended the course.

Regional Sentencing Seminars

The Provincial Judges Association (Criminal

Division) itself carries on a very active education programme which is financially supported by the Ministry. This programme consists of regional sentencing seminars and central education seminars, with papers being prepared by various judges and other speakers for discussion and subsequent distribution to the judges.

New Programme in Conjunction with Court of Appeal

In an effort to assist the judges in the sentencing process, the Provincial Judges Association and the office of the Chief Judge, with the cooperation and assistance of the Chief Justice of Ontario and the members of the Court of Appeal, have established a programme whereby the Provincial Court judges in the Criminal Division have the opportunity of coming to Toronto for three days to observe the argument of criminal appeals. As well, they thereafter participate in a discussion period with the members of the Court concerning various sentencing problems. This substantial programme, which has been funded by the Ministry, has been extremely successful. It represents an entirely new approach toward assisting trial judges in dealing with the day to day problems of sentencing in the Criminal Division. As a sequel to this programme at the Court of Appeal, there will be a programme presented at the University Education Programme dealing with "The Offender as a Person" in the sentencing process.

Educational Programme for Justices of the Peace

In addition to continuing education for the Provincial Court judges, the justices of the peace are also involved in a similar programme which has completed its second year of operation. A committee composed of the Chief Judge of the Provincial Court (Criminal Division), several Provincial Court judges and a number of Crown Attorneys has prepared a three day programme for all justices of the peace. These

programmes involve lectures, video tapes and general discussions to ensure a continuing high level of judicial performance.

Legislation with Respect to Justices of the Peace

New Control and Direction

The Justices of the Peace Amendment Act came into force on January 1, 1974. This legislation provides that a justice of the peace may not carry out any act except as directed by the Chief Judge of the Provincial Court (Criminal Division) or the Chief Judge of the Provincial Court (Family Division) or by a judge designated by either of them.

Review Council

In view of the increasing use of justices of the peace throughout the province as sitting justices of the peace, in addition to their usual duties of issuing process, their status as judicial officers has been recognized by legislation establishing a Justices of the Peace Review Council.

At the present time, approximately 600 justices of the peace have been authorized to carry out their duties in accordance with certain directions, the directions having been issued in accordance with the abilities of the justices of the peace and the necessity for their service in a particular area.

Statistical Data

Caseload Increase

The total caseload on the basis of the calendar year has been surveyed, and it would appear that there was an increase in the total caseload in 1974 over 1973 of approximately 24%.

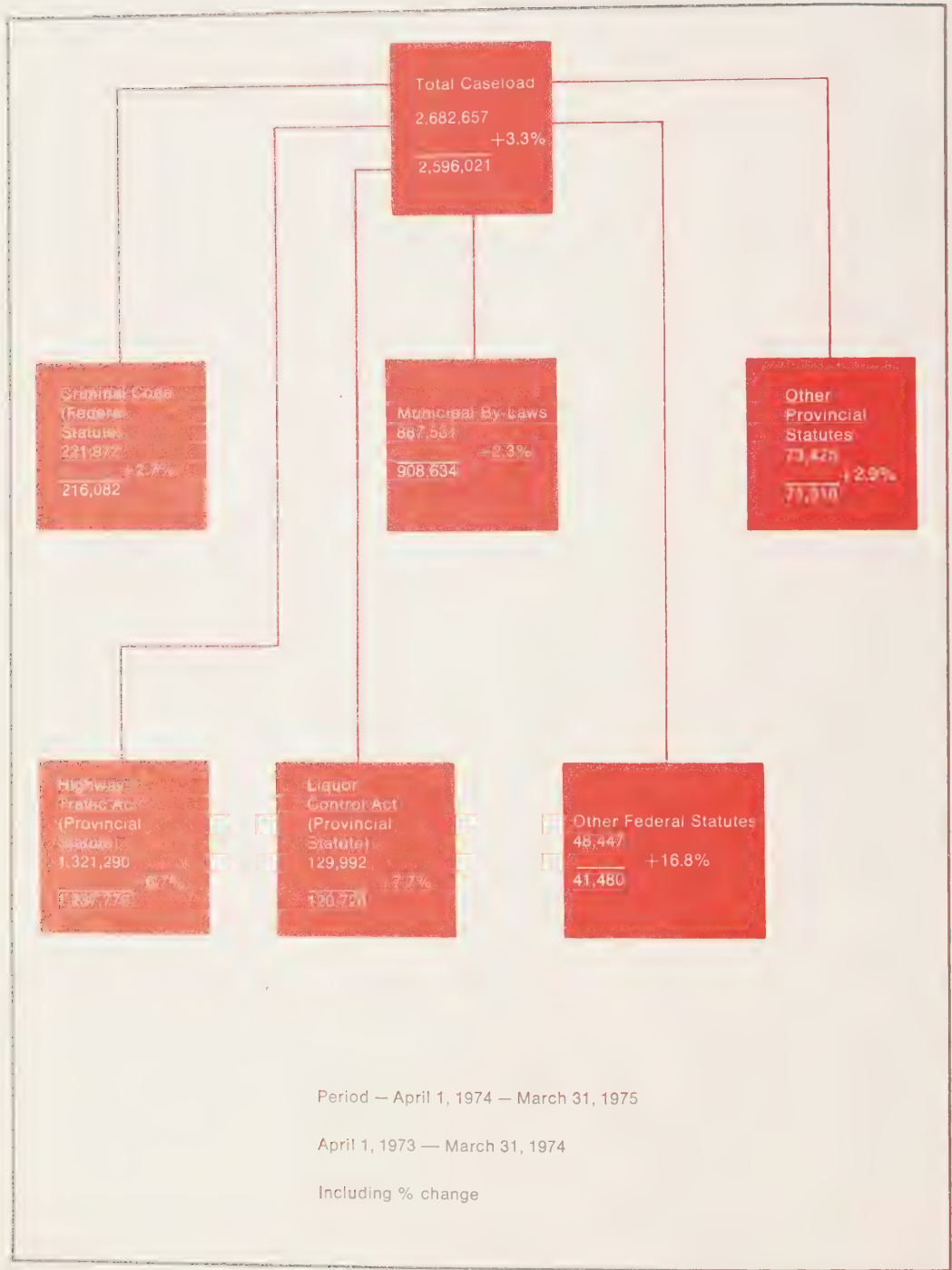
Narcotics Charges

A calendar year survey outside Metropolitan Toronto indicates an increase in *Criminal Code*

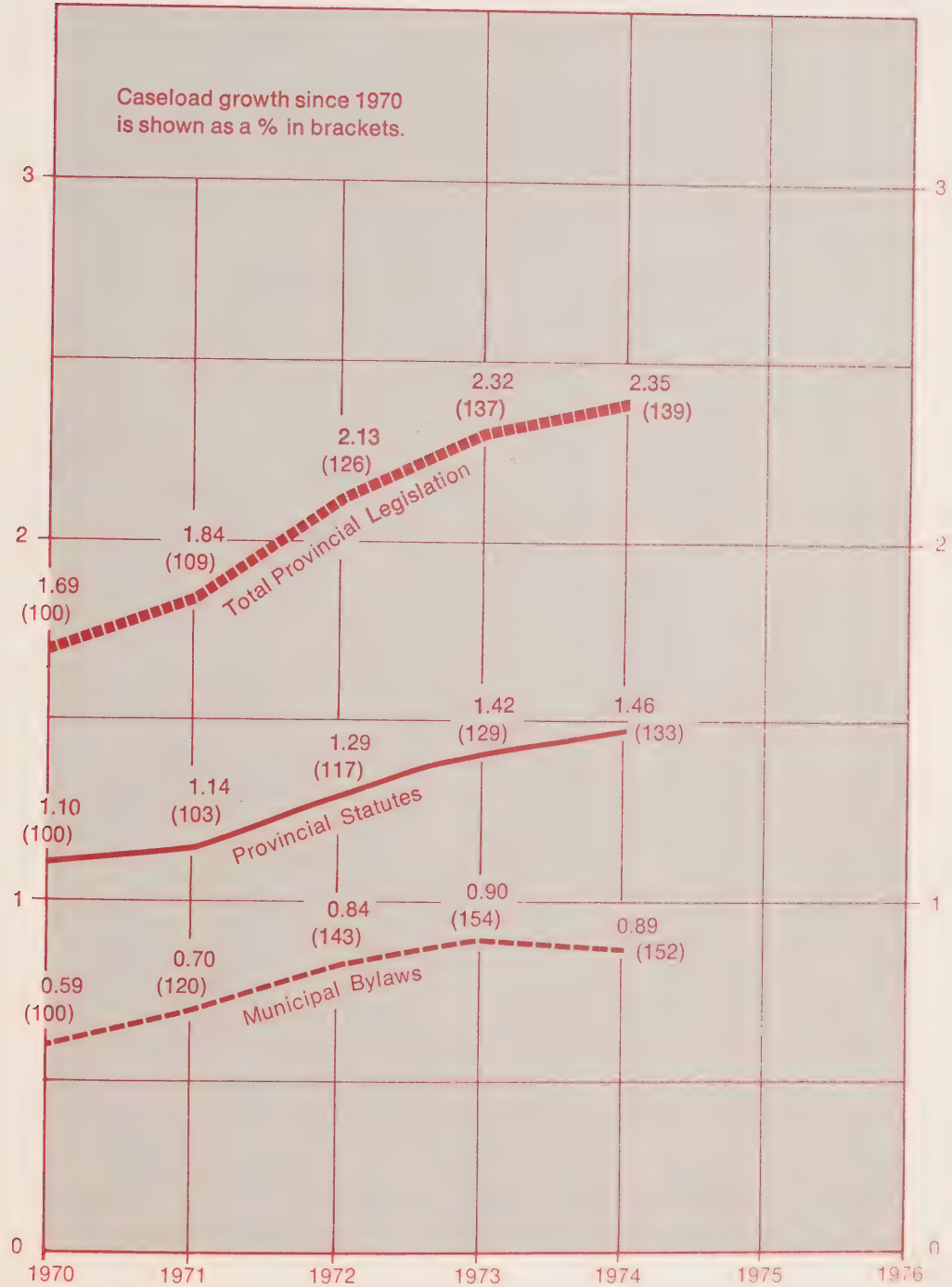
charges in 1974 over 1973 of 1.1%, but this does not represent the strain placed on the resources in various rapidly developing communities. In respect of narcotics charges outside Metropolitan Toronto, there was a very substantial increase in 1973 over 1972, and there was a 27.6% increase in these charges in the calendar year 1974 over 1973.

In Metropolitan Toronto in respect of *Criminal Code* and *Narcotic Control Act* cases taken as a total figure, there was a very slight decrease in the number of new charges received at the Old City Hall, but there was a 20.26% increase in the number of new charges received in the suburban courts. Although there was a slight decrease in the number of *Criminal Code* and *Narcotic Control Act* charges received at the Old City Hall, the nature of the offences before the court required an increase in the number of judge days assigned to special trials of approximately 16% in the fiscal year 1974-75 over 1973-74.

Caseload Analysis
Provincial Court (Criminal Division)

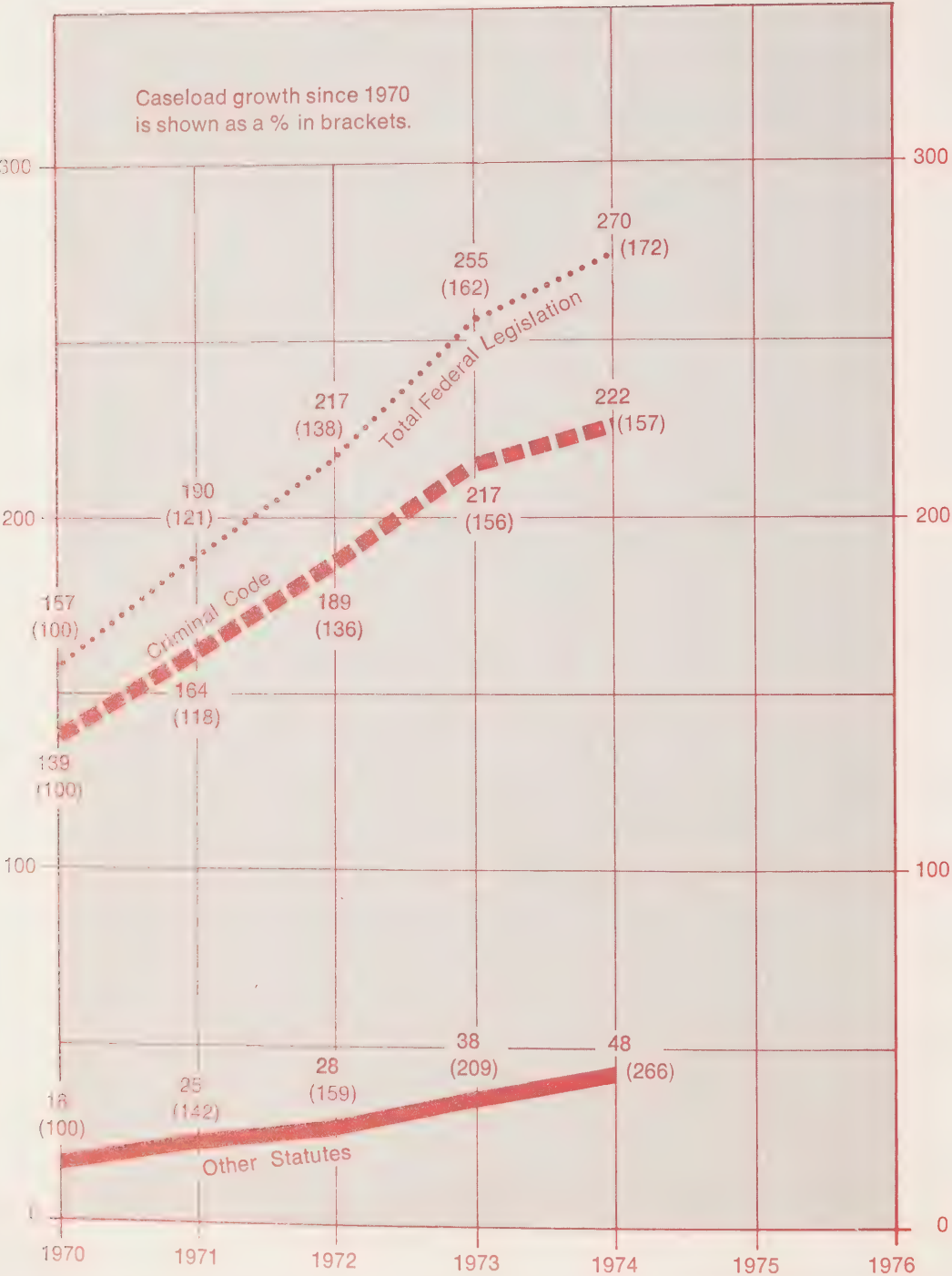


Violations Under Provincial Legislation
Cases Disposed (Millions)



Offences Under Federal Legislation

Cases Disposed (Thousands)



Report of the Operations of the Provincial Court (Family Division) for the 1974-75 Fiscal Year

Number of Judges

As of March 31, 1975, there were 53 Family Court Offices in operation throughout the Province. Forty of these were full-time Family Division Offices, while 13 operated in combination with a Criminal Division. The Family Division is served by 38 full-time judges, and 14 judges who also serve the Criminal Division, aided by six judges who have reached retirement age, but have been given part-time extensions because of the need for additional judges.

Function

The Family Courts process and administer cases arising out of *The Deserted Wives' and Children's Maintenance Act*, the *Criminal Code* of Canada, the *Juvenile Delinquents Act*, and *The Child Welfare Act*. The Court also enforces orders of the Supreme Court of Ontario. In addition, the Family Courts are being called upon to provide a high degree of in-court social service delivery to their clients beyond the basic adjudicative functions. For example, in the Judicial District of York, eight social workers are available to interview all new domestic cases. As a result, fewer than one-third of such cases end up with charges being processed, the majority being resolved either during the intake interview or through referral to specialized agencies.

Set-back of Automatic Enforcement Programme

The Family Court automatic enforcement programme suffered during the year because of restrictions on staff complement. The purpose of automatic enforcement is twofold: to assist in maintaining a regular flow of

moneys to the payee, and to prevent the accumulation of arrears to such an extent that their payment becomes an impossible burden for the payor. Although the financial returns to families, the Treasurer of Ontario and municipal welfare authorities have more than reimbursed the cost of the programme, it has yet to be fully or effectively implemented throughout the province. Three inter-related reasons may be cited for this: (i) the increase in moneys received by the court requires more staff time in processing payments; (ii) some judges have been unable to allocate sufficient court time to deal promptly with the additional show cause workload; and (iii) the business of some courts has increased leading to the natural tendency to direct some, or all, of the enforcement staff to the regular, necessary operation of the court.

Judicial Education

Throughout the year, professional development of judges and court officials continued to receive emphasis. Training programmes for the judiciary were conducted in Toronto from October 27 to November 1, and from November 24 to November 29, 1974. The philosophy of these training programmes, as expressed in the original concept, encompassed the following four components:

THE LAW: By means of lectures, discussions and video tapes, judges are given the opportunity to review recent developments in statute and case law, both substantive and procedural.

BEHAVIOURAL SCIENCE: Through lectures, discussions and role playing, judges learn the operation concepts of the science, how to identify problems and how to use and interpret specialists and experts.

TREATMENT MODES: Judges are made aware of the facilities available for treatment of offenders and by correlating these ideas with behavioural science concepts, develop an understanding of the offender.

Caseload, Provincial Courts (Criminal Division) For the Fiscal Period Ended March 31, 1975

Caseload Analysis

COUNTY OR DISTRICT	TOTAL CASELOAD	C.C.C.	H.T.A	L.C.A.	MUNICIPAL BY-LAWS	FEDERAL	OTHER	% INCREASE 1974 - 1975
ALGOMA — Sault Ste. Marie Bruce Mines & Elliot Lake	20,163	3,242	8,204	1,229	5,728	603	1,157	4.40
BRANT	4,378	1,311	2,030	565	81	91	300	(.66)
BRUCE	18,451	2,626	10,657	1,450	3,019	317	382	7.34
COCHRANE — Cochrane Timmins	8,927	1,599	5,250	1,371	345	94	268	10.20
	6,782	1,557	2,652	1,317	583	209	464	(2.71)
	13,137	1,601	5,772	890	3,531	258	1,085	19.69
DUFFERIN	4,993	801	2,712	716	511	32	221	9.74
DURHAM	42,935	4,631	27,287	3,758	5,864	816	579	7.51
ELGIN	16,902	1,721	9,793	1,711	3,350	64	263	6.61
ESSEX	85,591	8,620	37,262	2,146	31,577	4,818	1,168	18.42
FRONTENAC	30,347	2,450	14,273	1,936	10,688	794	206	25.98
GREY	13,003	1,604	7,169	2,254	1,345	166	465	20.71
HALDIMAND	5,957	877	4,037	739	56	95	153	19.00
HALTON	33,407	4,122	20,385	2,206	4,982	849	863	1.50
HAMILTON-WENTWORTH	133,468	11,097	59,604	5,396	52,935	2,709	1,727	5.79
HASTINGS	19,258	3,091	9,157	2,417	3,323	906	364	28.06
HURON	8,777	970	5,463	1,836	173	132	203	22.69
KENORA — Kenora Dryden	6,026	1,152	882	3,272	296	167	257	22.08
KENT	8,379	1,324	2,003	4,249	41	176	586	8.30
LAMBERTON	22,754	2,929	13,748	2,315	2,801	324	637	8.12
LANARK	25,943	3,317	15,563	3,509	2,109	604	841	12.36
LEEDS & GRENVILLE	8,021	1,603	3,404	1,757	767	145	345	15.98
LENNOX & ADDINGTON	12,965	1,862	8,272	1,483	970	166	212	24.53
LENNOX & ADDINGTON	7,447	829	4,892	1,097	298	93	238	4.58
MANITOULIN	1,314	188	397	622	1	21	85	48.31

NIPISING	20,580	14,782	2,620	12,581	1,101	4,701	489	273	2,39
NORFOLK	6,864	1,727	8,664	1,648	1,790	797	215	554	14,78
NORTHERLAND	13,928	1,018	3,684	943	797	345	233	503	7,87
OTTAWA-CARLETON	190,960	1,989	9,093	1,765	3,357	90,285	3,853	29,280	5,72
OXFORD	12,066	8,411	55,774	3,357	1,888	1,234	196	221	25,37
PARRY SOUND	4,595	1,193	7,334	1,888	423	679	82	351	4,38
PEEL	58,384	9,593	30,192	3,511	5,211	3,915	5,962	146	(16,55)
PERTH	10,096	991	6,161	1,167	1,487	144	146	475	3,22
PETERBOROUGH	19,232	2,069	8,513	1,429	6,607	164	450	3,17	4,75
PRESCOTT & RUSSELL	7,524	1,035	5,823	196	92	115	263	(9,11)	3,17
PRINCE EDWARD	4,836	1,389	1,918	592	475	44	418	25,68	(9,11)
RAINY RIVER	3,235	887	811	540	316	299	382	(3,86)	25,68
RENFREW	12,243	2,283	6,116	1,418	1,357	684	385	9,58	(3,86)
SIMCOE — Barrie	33,043	4,419	19,544	3,211	4,092	1,061	716	6,74	9,58
— Orillia	15,547	1,925	9,646	1,655	1,538	216	567	7,12	6,74
STORMONT, DUNDAS & GLENGARRY									7,12
— Cornwall	13,028	2,361	7,068	560	2,392	275	372	11,19	
— Morrisburg	9,952	946	6,890	1,481	249	110	276	11,83	
SUDBURY — Sudbury	33,011	4,902	22,758	1,804	2,423	816	308	(16,40)	
— Espanola	1,824	372	1,030	252	25	27	118	16,03	
THUNDER BAY	31,322	3,125	17,814	5,507	2,177	1,159	1,540	(,36)	
TIMISKAMING	7,693	1,665	3,077	943	1,188	141	679	(5,38)	
VICTORIA & HALIBURTON	9,224	1,914	4,246	1,771	593	138	562	6,86	
WATERLOO — Cambridge	11,594	569	7,559	798	2,493	14	175	24,56	
— Kitchener	35,844	4,333	19,344	2,081	9,485	587	587	8,81	
— Waterloo	8,883	728	5,727	156	1,682	572	18	1,69	
WELLINGTON	27,556	2,480	14,799	2,028	7,152	420	677	9,49	
YORK — Newmarket	98,846	5,153	85,243	2,198	4,541	844	867	37,81	
— Metro Toronto	1,281,697	73,393	580,784	26,601	577,226	12,506	11,187	(4,29)	

TOTAL	2,682,657	221,972	1,321,290	129,992	887,531	48,447	73,425	
	3,34%	2,73%	6,75%	7,67%	(2,32)%	16,80%	2,95%	3,34%

The Ministry of the Attorney General

SELF-RENEWAL: This is a general aim which will be encouraged by all the other components.

These were broadened in 1974 by the inclusion of the following areas:

MANAGEMENT: Through various exercises and lectures, judges appreciate the potential and actual control they can exercise over caseload, administration and auxiliary services.

ENCOUNTER EXPERIENTIAL: Judges are asked to immerse themselves into the day to day activities of the support services which they have occasion to use.

Approximately 24 judges participated in each session of the 1974 program.

Court Administrator Training

Court administrators attended training programs in Toronto from April 3 to 6, May 14 to 17 and June 4 to 7, 1974.

National and International Conferences

The Chief Judge of the Family Division attended the Ninth International Conference of Youth Magistrates in England in July, 1974. Two judges attended the Canadian Conference on Social Welfare in Calgary in June, 1974; one judge attended the National Conference on Juvenile Justice in New Orleans in March, 1975.

Decentralization of Court

Among the many programmes in operation in the Family Division is the decentralization of the Family Court in Metropolitan Toronto from its single location at 311 Jarvis Street to facilities in Scarborough, North York and Etobicoke. New facilities have been provided in Scarborough while plans are proceeding for new facilities in Etobicoke and North York. The plans for complete decentralization will continue with a view to making the Family Court more accessible to the needs of the community.

Observation and Detention Homes

The Ministry provides administrative services to twelve Observation and Detention Homes at various locations throughout the province. Seven of the facilities are owned and operated by the Ministry. At the present time, a new Observation and Detention Home is under construction in London.

Homes on Contractual Basis

The remaining five Homes are operated by individuals or organizations on a contract basis, with the Ministry providing the operating funds. Because of present financial restraints and the increase in costs of capital construction, the Ministry plans to increase the number of Homes operated on a contract basis rather than assume the costs of having to construct its own facilities. There are numerous areas in the province where Observation and Detention Homes are needed; it is hoped that funds will be available in the next fiscal year to provide facilities on a contract basis for these areas.

Coordinator, Court Reporting and Appointments

Function

The Coordinator develops and implements approved policies for court reporting services in all levels of the courts in the province, as well as in certain boards, commissions, tribunals and related areas. He maintains a continuing review of the court reporting function, reviewing and consolidating all legislation and regulations governing court reporters and recommending amendments or changes in policy to ensure equitable and uniform practice through the province. Working with the regional court reporters, he coordinates the provision of court reporting services and maintains and ensures acceptable standards of court reporting throughout the province.

Methods of Reporting

There are approximately 350 court reporters on full-time staff and 125 hired on a freelance basis. The use of shorthand reporters and Stenomask reporters in the courts continues to supply the backbone of reporting services, although the electronic recording of proceedings is under constant review by the Ministry. With the advent of justice of the peace courts, the demand on the court reporters' time has greatly increased, leading to the installation of electronic recorders operated by monitors. Recently, mechanical recording equipment was installed in two Supreme Court rooms; experimentation and evaluation of the system is proceeding.

The Coordinator also provides direction and support to the offices of the special examiners in Toronto, Hamilton, Ottawa and Windsor.

Maintaining Records on all Justices of the Peace

As well, the Director assumes responsibility, delegated by the Inspector of Legal Offices, for all justices of the peace in the province. This involves receiving and evaluating requests for appointments, maintaining and up-dating records of over 600 justices of the peace and monitoring and developing training programmes. Additionally, he investigates inquiries and complaints concerning justices of the peace. He is also responsible to the Inspector of Legal Offices for the development and administration of Ministry policies concerning the appointment of commissioners of oaths and notaries public.

Coordination, Central West Development Project

The pioneering activities of this project are detailed in a separate section of this report.

Coordinator, Management Information System

Criminal Information System

In 1974/75, a criminal information system was developed and implemented in two counties. The system developed is a caseload system, which follows the activity of a case from the time it is received in a court office until it is finally completed. The pilot system has been analyzed thoroughly with a number of modifications being made to the initial system. These have greatly simplified data collection requirements and staffing requirements in the court offices. The modified criminal information system makes use of computer terminals on which the input is keyed, then transmitted daily to the head office in Toronto over the telephone line. During 1975/76, the criminal information system will be implemented in all counties in the Central West Region. The modified system provides for regular reports to be produced within 1 to 2 weeks after the end of each period. In addition, special reports can be provided immediately on request.

Provincial and Municipal Information System

An information system for provincial statutes and municipal by-laws has been designed. This system collects information on those infractions and offences which are less severe than those covered by the Criminal Information System. This system, a case detail system, has been designed to complement the Criminal Information System and thereby to provide an overall picture of the activity in the Provincial Court (Criminal Division). The information system will be implemented in one county in the Central West Region on November 1, 1975. After the pilot study has been undertaken, the existent system will be audited thoroughly prior to future expansion. Data for the Provincial and Municipal Information System will be keyed at the Hamilton Keying Centre, currently being used by the Criminal Information System.

The Ministry of the Attorney General

Juvenile Information System

A modified juvenile information and statistical form was implemented by Statistics Canada in early 1975. The altered form was designed by Statistics Canada in cooperation with the Ministry and the Office of the Chief Judge of the Provincial Court (Family Division). It collects more comprehensive information about juveniles charged under the *Juvenile Delinquents Act*.

New reports have been designed which summarize the contents of the altered form and provide a useful profile of the types of cases that have been disposed of in the Provincial Court (Family Division).

Statistical Data Centre

The statistical area of the Management Information System is responsible for production of quarterly and annual reports for management. Trend information has been incorporated into these reports through the use of graphs which provide a visual representation of court activity for the Supreme, County, Surrogate and Provincial Courts. Another attempt to provide more meaningful information has been through the introduction of the first annual report which provides multiple year data. This annual report provides comparative statistics from the years 1972/73, 1974/75, and 1975/76. During the remainder of 1975/76, it is intended to add more trend information to the quarterly reports and to attempt to provide more analysis of the information collected.

Accommodation Advisor

During the past year the Ministry has worked closely with the Ministry of Government Services, Programme Management, Planning and Research, Realty Services and Property Management Branches to extend and improve court accommodation throughout the province.

Projects Completed

The Court House and Registry Office in London was completed; the Provincial Court (Criminal and Family Divisions) in Thunder Bay occupied new premises in a lease-back building specifically designed for this purpose; the Provincial Court (Criminal Division) in Orillia was relocated; the parking facilities at the Brampton County Court House were extended and completed.

Projects Under Construction

Under construction are the Barrie Court Building, anticipated completion date 1977; the Juvenile Observation Home in London, anticipated completion date 1975; the alterations at 145 Queen Street West, Toronto, to provide two additional High Court courtrooms, anticipated completion date September 1975; Family Court alterations in Milton; and the Old City Hall Provincial Court (Criminal Division) continuous improvement programme.

Projects in Contract Stage

In the contract stage are the Provincial Court House, Kitchener; the completion of the unfinished courtroom in the Norfolk County Court House; the second phase of the Old City Hall improvements in Toronto; relocation of the Provincial Court facilities in Brockville; and the relocation of the Provincial Court (Family Division) in Kingston.

Projects in Planning Stage

In the planning stage are consolidated court buildings in Scarborough, North York, Newmarket, Lindsay, North Bay, St. Catharines, Brockville, Etobicoke, Toronto, Guelph, Windsor, Hamilton, Sudbury and Ottawa; and a lease-back building is planned in Windsor for the Provincial Court (Family Division).

Ministerial Accommodation Committee

During the year, the Inspector of Legal Offices established a Ministerial Accommodation Committee. The members are: the Chief Judges of the County Court and Provincial Courts (Criminal and Family Divisions), the Director of Crown Attorneys, the Ministry's Accommodation Advisor and the Inspector of Legal Offices. The purpose of this committee is to review and approve the requirements for each new court structure or alteration prior to the requirements being submitted to the Ministry of Government Services for the preparation of sketch plans. The committee then reviews the sketch plans and suggests changes.

Guidelines for Court House Construction

The committee is presently preparing guidelines for court house construction for use by architects designing court accommodations. The guidelines will contain descriptions of various offices required in court houses as to space required, facilities needed for each area and the relationship of various offices within a court structure.

Programmes and Administration

Brian W. McLaughlin, C.A., General Manager

Function

This section of the Ministry is responsible for directing and coordinating the Ministry's general support services including personnel, financial management, auditing and administrative procedures. In 1974, emphasis was placed on increasing the use of computers and making more efficient use of available resources in compliance with the Ontario government's overall austerity drive.

Systems Development Branch

During the 1974-75 fiscal year, this branch continued work on projects ranging from a review of the computer scheduling of court hearings and caseloads to the creation of a flow chart outlining the complex law of criminal procedure.

CYCLOPS II System

The review of the CYCLOPS II system, which has computerized the scheduling of court hearings and caseloads, confirmed that financial savings at the rate of \$180,000 per annum were being achieved. As well, the system has reduced the required number of night court sessions from a pre-introduction average of 23 per night to between 12 and 15 per night. One important feature added to the system involves a "back-filling" technique which allocates parking tag offences and re-issued summonses to the earliest possible court dates which have become "open" through the pre-payment of fines or re-adjustment of schedules. This helps to minimize the time between the date of the offence and the court appearance. The CYCLOPS II system, unique in North America, remains one of the most complex and comprehensive operating systems within the government of Ontario.

A sub-system

A sub-system of CYCLOPS II has been successfully utilized in connection with the North York Traffic Terminal, described elsewhere in this Annual Report. The increased flexibility of appearance dates offered to motorists by the Tribunal requires a computer system to re-schedule quickly to avoid wasting court time. As well, the North York project relies upon the CYCLOPS system to provide the hearing officer and the accused with an instantaneous review of the accused's driving record on computer screens in the courtroom. The Systems Branch was jointly responsible for developing this program with the Ministry of Transportation and Communications.

The Ministry of the Attorney General

Study of Delay in Criminal Courts

During the summer of 1974, a study was made to determine the causes of delay in cases before the criminal courts. The resultant report has suggested changes which would significantly improve the use of available resources. Action is being taken on the recommendations.

Studies to Improve Efficiency

In November, 1974, a contract was let for the delivery of consulting services for a feasibility study in the Office of the Public Trustee with the main purpose of identifying problem areas in the present systems and procedures of that office and to recommend areas for improvement. The report covering the findings of the feasibility study is expected to be available in the first week of April, 1975. It is anticipated that the report will recommend an in-depth systems investigation in order to introduce the economics available from data processing methods and thus reduce the high labour-intensive operations which are now in existence.

In October, 1974, a contract was let for a project team to assist the Ministry in the development of new financial systems which would not only supply the Ministry with a comprehensive and accurate accounting system, but would also include desirable management accounting features such as budgetary control, cost distribution analysis and commitment accounting. One of the main objectives in the design of the new financial systems is the desire for future financial analyses of the various functions which comprise the Ministry of the Attorney General.

It is intended that the new financial system will be programmed and implemented by April 1, 1976, for the beginning of the new fiscal year.

Flow Charts

A flow chart describing the process in criminal proceedings was completed and has been distributed to judges and Crown Attorneys. The

flow chart of the process in family matters is in final draft form and will be available in April. A start has been made on the civil process.

Planning and Evaluation Branch

Objective

The objective of the Planning and Evaluation Branch is to assist management in the most effective allocation and utilization of the Ministry's resources. Advice is offered to programme managers to help their search for new and more effective ways of delivering the service for which they are responsible. A key element of this advice is the development and use of timely and relevant information for sound decision-making, both planning and control.

Evaluating Service Level

Achieving this Branch's goal involves evaluating the service level both in quality and quantity and the future financial and service level implications of both on-going operations and proposed new issues. These operational and financial plans, which may be either short-term (1 year) or long-term (2-5 years), attempt to provide a clear link between the accomplishments and the utilization of resources in each programme.

Multi-Year Plan

One of the most visible responsibilities and accomplishments of this branch is the Ministry's Multi-Year Plan (MYP). Prepared annually, this five-year forecast of programme size (i.e., in dollars of expenditure and staff complement) attempts to relate resource needs over the next few years to the expected changes in the quality and level of service provided. Both new and on-going operations are considered. Funding level decisions resulting from the MYP review serve as a basis for and a guide to the preparation and assessments of the Ministry's annual estimates submission.



The Ministry of the Attorney General

Management by Results Projects

The 1974 Multi-Year Plan and estimates submission process was complemented by several Management By Results (MBR) projects. The MBR concept calls for identification of the key issues in an operation and their quantifiable components. A relationship between resources utilized and results achieved, as expressed by the quantified elements, is then developed and applied to measure the current performance level. Finally, this current performance level is used as a basis for a commitment to a future result expectation at some given funding level.

An initial move was made in 1974 to apply and test the MBR concept in two selected programmes, the Legal Aid Plan and the Crown Attorneys system. A plan is now being prepared to adopt the Management Board's goal of implementing the MBR approach throughout the government system by 1978.

Management Audit Branch

Three Programmes

The three main programmes of this Branch are regular audits of the Ministry's administrative units, responsibility for the Defaulted Fines/Licence Suspension System and special audits of those Small Claims Courts which are closed and amalgamated with other courts.

Defaulted Fines/Licence Suspension System

During the fiscal year just ending, the Defaulted Fines/Licence Suspension System experienced an accelerated increase in activity, commencing in July, 1974. At that time, the rate of suspensions rose sharply, and has continued at a high level. Suspensions are averaging 6,000-7,000 per month, while the rate of reinstatements has risen from 38% at July, 1973, to a current rate of 46%. As at February 28, 1975, the accumulated value of reinstatement payments was \$909,805.00.

Since 70% of all suspension orders originate with the Metro Toronto court, and 90% of inquiries result from Metro suspensions, the volume of telephone and personal inquiries has risen sharply during the year. To handle this expanded activity, it has been necessary to reorganize the Defaulted Fines Control Centre. Telephone facilities have been expanded, additional contract staff recruited and the physical arrangement reorganized. As a result, the Centre is now functioning well, within the present space limitations.

Suspensions Computerized

Since September 19, 1974, all suspensions have been programmed into the computer of the Central Police Information Centre (C.P.I.C.). This, plus increased public awareness of the System, may account for the improvement in the rate of reinstatement, although this rate has shown a tendency to level off during the past three months.

Indications are that during the coming fiscal year the activity of the System will continue at, or exceed, the present high level.

Personnel Management Branch

Function

This Branch is responsible for the recruitment, classification, training and paying of Ministry employees. As well, it has duties in relation to staff development, including the expansion of bilingual services in judicial offices, staff counselling and the administration of personnel records and employee benefits.

Training Court Administrators

During the spring of 1974, an ambitious series of training programmes was held for court administrators of the Provincial Court Offices. For the administrators of the Criminal Division Offices, this was their first exposure to formal

The Ministry of the Attorney General

training. This forum allowed 108 Family and Criminal Court administrators the opportunity of meeting not only their contemporaries in the field, but also representatives from the various branches at head office and special guests. Work sessions highlighted the many facets of the court administrator's role.

On-the-job Training

As well, inter-office training visits for court administrators were held in 1974. This programme was intended as on-the-job training designed to meet the particular needs of the individuals.

Workshops

A series of eleven 2 and 3-day workshops for justices of the peace were held during the late fall and winter of 1974-75. Approximately 600 justices of the peace attended the workshops, which were intended to update the legal knowledge required to perform their functions.

Continuing Judicial Education

The judges of the Provincial Court were involved in educational programmes covering topics of current concern. The programmes were intended to increase judicial awareness and sensitivity to the court and court office process. A variety of seminars, workshops, conferences, etc. were repeated in 1974 at all levels, including Supreme Court judges' conferences, County and District Court conferences and seminars, Provincial Court judges' conferences and continuing education programmes, Crown Attorneys' summer school, Public Prosecutors' orientation, and refresher courses. There continues to be an awareness of the need of continuing education programmes at all levels.

Employee Counsellor Programme

Once again, there was an increase in demand for the highly successful employee counsellor

programme. In 1974, the counsellor visited twelve offices outside Toronto to discuss both work and personal problems with employees.

The Branch also advised management with regard to organization, effective utilization of staff, job design, job analysis and job evaluation.

Supreme Court Accountant

Function

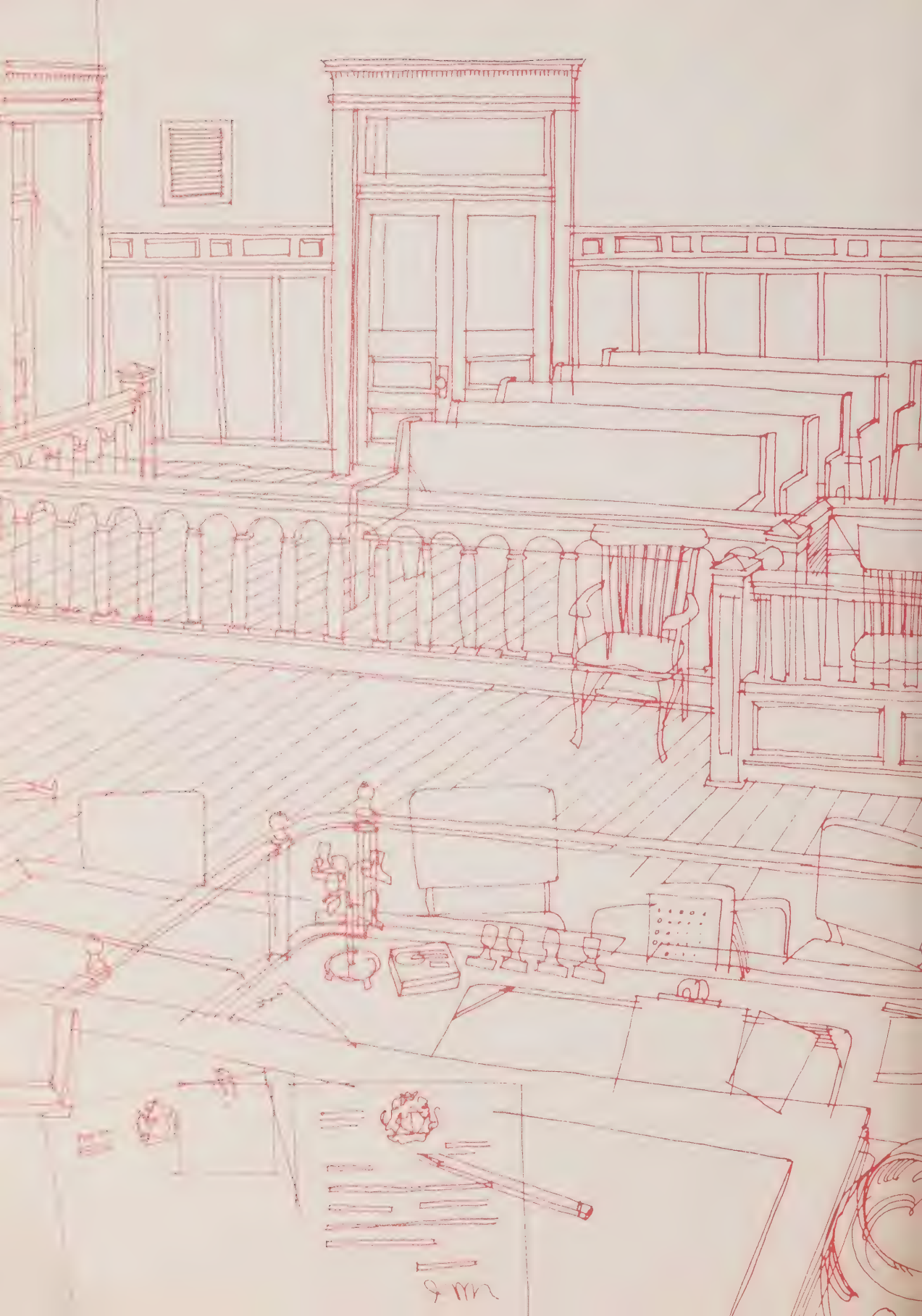
The Accountant of the Supreme Court administers trust funds belonging to minors and other persons within the jurisdiction of the Official Guardian. Funds paid into courts during litigious proceedings are also administered by this office.

Assets

Assets under management at the end of fiscal 1974 totalled \$102 million. The interest rate of 8% guaranteed on "permanent" funds belonging to infants was raised to 9% during the year. A rate of 6% continues to be paid on "temporary" funds being held until court cases are settled.

Investments

The investment portfolio was more actively traded in the past year. The total value of the 700 transactions in 1974 was \$155 million, more than four times the 1973 level. This activity enabled the Accountant to take advantage of rising interest rates which were passed on to infants' funds.



The Ministry of the Attorney General

Office of the Legislative Counsel

W. C. Alcombrack, Q.C., Senior Legislative Counsel

Function

The duties and responsibilities of the office include:

- advising and assisting ministers and agencies of the government and Members of the Assembly on all matters of a legislative nature;
- drafting rules and regulations;
- printing the annual volume of statutes;
- filing and publishing the regulations.

Updating Regulations on Film

The office has now completed its project, embarked upon some three years ago, of updating regulations on film. Presently, updating is done regularly within two weeks of the latest filings of regulations. This updated copy is provided for the use of the Queen's Printer.

Updating Statutes on Film

A similar project involving the updating of the statutes on a selective basis is underway. This project is scheduled to ensure that they will be up to date for the purposes of the next revision of the statutes. Following the next session, it is expected that the statutes will be kept up to date on a regular basis. This will have the advantage of spreading the work and cost of future revisions over a number of years. It will further enable this office to provide up to date printed copies continuously for the purpose of publishing office consolidations.

The Ministry of the Attorney General

**Table of Number of Bills Drafted,
Introduced and Passed Since 1972**

	1972	1973	1974	1975
No. of Government Bills Drafted	241	230	225	150
No. of Government Bills Introduced	179	185	145	94
No. of Government Bills Passed	173	177	137	89
No. of Private Bills Introduced	34	40	31	32
No. of Private Bills Passed	31	38	31	31
No. of Private Members Bills Drafted	95	94	72	45
No. of Private Members Bills Introduced	85	93	58	53
No. of Private Members Bills Passed	Nil	Nil	Nil	Nil
Total Number of Pages in Statute Book	132 1,734 1,866	1,750	1,700 (approx)	900 (approx)

1972 Session - Commenced Feb. 29th, 1972 Prorogued Dec. 15th, 1972
 1973 Session - Commenced Mar. 20th, 1973 Prorogued Mar. 5th, 1974
 1974 Session - Commenced Mar. 5th, 1974 Prorogued Feb. 14th, 1975
 1975 Session - Commenced Mar. 11th, 1975 Dissolved August 11th, 1975

**Table of Number of Regulations Drafted
and Filed Since 1972**

	1972	1973	1974	1975 estimated
No. of Regulations Drafted	732	984	1152	1150
No. of Regulations Filed	600	828	1001	1100
Published Pages in Gazette	1340	1941	1767	1975

Common Legal Services

John D. Hilton, Q.C., Assistant Deputy Attorney General

All Government Lawyers Employed By Ministry

Common Legal Services was established in 1973 to provide legal services for all Ontario government ministries and to develop a unified approach to such things as pay and grading for legal services provided to independent boards and commissions. Lawyers in the eighteen legal branches of the various ministries are employed by Common Legal Services on behalf of the Attorney General. This procedure encourages independence of legal opinion within the various government departments and facilitates consultation on points of law. Common Legal Services is also responsible for the retention of outside counsel where the services of such are required by the government.

Professional Development

Professional development of its lawyers is a continuing objective of Common Legal Services. Education programs offered by the Canadian Bar Association, the Law Society of Upper Canada and the Advocates Society are regularly used for updating and enlarging the legal knowledge of member lawyers. In the past year, salary and experience classifications have been reorganized to reward initiative, effort and ability. Movement of lawyers between legal branches is on the rise as is promotion of employees within Common Legal Services, thereby creating more career opportunities for government lawyers.

Association of Civil Lawyers

As a result of an educational conference held in September, the Association of Civil Lawyers working within the government has been formed to consider and deal with the common

problems faced by the civil lawyers in the government. It is hoped that this will result in an increased sense of common identity, thus increasing the pride, productivity and quality of the government's lawyers.

Liaison with Boards

In addition to the foregoing, this office has a liaison responsibility between the Ministry and the Municipal Board, the Land Compensation Board, the Board of Negotiation and the Criminal Injuries Compensation Board.

Chief Inquiry Officer

A substantial amount of time in this office is also used in the discharge of the responsibilities of the chief inquiry officer, pursuant to *The Expropriations Act*, involving the retainer of and the liaison with inquiry officers throughout the province and a large area of communication with the public in relation to *The Expropriations Act* generally.

The offices of the Official Guardian and the Public Trustee also report to the Assistant Deputy Attorney General, Common Legal Services. Including these two operations, Common Legal Services has nearly four hundred employees in professional, secretarial and clerical positions.

Special Projects — 1974-75

Family Property Law Project

Social Values and the Law

Problem of Translating Social Values into Law

The translation of modern social values into our legal system is frequently hampered by the lack of consensus on just what the new social value is. The basic problem confronting law-makers results from the fact that a society rarely simultaneously embraces a new value system. While it has become increasingly clear that laws which govern families must change to reflect the transition taking place in family life, the interpretation of these shifting social patterns remains a very difficult issue for those attempting to implement parallel changes in the law.

O.L.R.C. Study of Family Property Law

In response to this need for reform, the Ontario Law Reform Commission undertook a study of the present system of family property law which exists in the province, as well as some alternatives for change. This study, along with the Commission's proposals, were presented in a Report to the Attorney General and tabled by him in March 1974.

Obtaining Views of the Public

Because family law is so fundamental to all of us, the government felt it was absolutely essential to ascertain the views of the public before making any decision on the future of the specific recommendations proposed by the Commission.

Public participation in government is a much touted ideal; however, the realization of this kind of cooperation is very difficult to achieve in a mass society. Early in April 1974, the Policy Development Division of the Ministry of the Attorney General began to work on the problem of involving the public in the consideration of the Commission's proposals. This undertaking became known as *The Family Property Law Project*.

Informing the Public

Making Commission's Recommendations Known

Since the Report of the Law Reform Commission consists of almost 500 pages of text it became clear that the essential problem would be the development of a programme which would offer the public access to the recommendations, and also an appropriate means of expressing response to them. It was decided that any consultative approach must include an educative mechanism as well. Public understanding of the present law must be increased before any meaningful consideration of the recommendations could take place.

Process of Consultation

It was decided to hold a number of widely advertised public meetings throughout the province to provide background on the issues and to discuss with the public the Commission's recommendations. After making the decision to hold this series of public meetings, the Ministry began a process of consultation with interested groups, and communications experts, to discuss the best means of presenting the present laws and the recommendations to the public with as little bias as possible. The Ministry, through consultation and cooperation with the Ontario Committee on the Status of Women, produced a brief summary of the present law and the recommendations. Over 35,000 copies of this summary have been distributed.

Informational Film

The Ministry produced a film entitled "Family Property Law", which was intended to be shown at the public meetings prior to the discussions. Prints of the film were made available to the media and the public at large. Ministry staff began an active campaign to inform the public that the film was available to groups free

of charge and to date over 500,000 people have seen the film or parts of it. The film has been shown before a wide variety of audiences including the Ontario Law Reform Commission, the federal Law Reform Commission and the Ontario Council on the Status of Women.

Through the summer months one print of the film was made available to a group of women touring the province in a van equipped with multi-media resources. They visited many communities throughout southern Ontario and some 400 persons had an opportunity to see the film.

Public Meetings

Twelve public meetings were held throughout the province. In preparation for each meeting an advertising and publicity campaign was conducted in each area. A massive telephone campaign was carried out. Flyers and invitations were sent to all major service clubs, churches, political parties, unions and other groups which represent large and diversified memberships. Community information centres were utilized and many individual citizens were privately contacted as well.

Using the Public Media

In many areas the Minister appeared on local television programmes prior to the meetings. Ministry staff did many open-line talk shows.

Informing Civil Servants

In addition to the public meetings sponsored by the Ministry of the Attorney General, the Ministry cooperated with the Office of the Executive Coordinator of Women's Programmes in the Ministry of Labour to show the film to 1,000 civil servants on four occasions. Ministry officials participated in the discussions which followed the showing of the film.

Public Response

Response to this programme has been considerable and largely favourable. Many people

have written to commend the government for its innovative approach to public involvement. Many briefs have been submitted and the Ministry receives over 35 letters a week commenting on these issues. On-going efforts have been initiated to assess this response.

Family Law Reform Bill

Bill 117

The family law review undertaken by the Policy Development Division of the Ministry is committed to a major reappraisal of the whole corpus of family law and changes in property law must ultimately be placed in this context. However, it was apparent that certain anomalies which exist in property law should be corrected before awaiting the completion of this larger task. Thus, on June 25th, 1974 the Attorney General introduced Bill 117, *An Act to Reform Certain Laws Founded Upon Marital or Family Relationships*. The Bill has been designed to repair inequities which women have experienced in the past which result entirely from their marital status. It corrects the familiar Murdoch situation, and also allows spouses to sue one another in tort. The Bill is intended to be remedial legislation only and does not pretend to effect a new property system for the province.

The Central West Courts Administration Project

History of the Project

O.L.R.C. Study on Administration of Courts

In September, 1970, the then Minister of Justice and Attorney General asked the Ontario Law Reform Commission to undertake a study and review of the administration of the Ontario courts and where necessary to recommend

Special Projects — 1974-75

reforms for the more convenient, economic and efficient disposal of their civil and criminal case loads.

In November, 1973, the first two volumes of the Report were tabled in the Legislature, followed by the third volume early in March 1974.

Regional Committees Established

Late in 1973, the Attorney General, the Deputy Attorney General and senior Ministry officials visited six regional centres: London, Kingston, Hamilton, Thunder Bay, Sudbury and Oshawa, to meet with the judiciary, court administration officials from all levels of court and Crown Attorneys to discuss the Law Reform Commission Reports. At that time, regional committees were established composed of representatives of the courts administration officials and Crown Attorneys in each of the proposed regions. These committees were asked to report to the Ministry, not only on the recommendations of the Law Reform Commission as they applied to the regions, but on fifteen specific questions including physical accommodation, staff requirements, the regional boundaries proposed, and the viability of the concept of a Regional Court Administrator. As well, during this period, briefs were received from various judicial associations and other interested parties.

Central West Region Selected to Test Recommendations

Based on the reports received from the regional committees, the other briefs received and studies conducted by the Ministry, two basic decisions were reached. These were that the concept of regionalization and the proposed boundaries for the regions appeared to be reasonable and viable, and that there was a definite need to proceed with a plan to test the feasibility of some of the recommendations of the Law Reform Commission. The Central West Region was selected because it is the province in microcosm, with a mix of urban

and rural communities, some travel difficulties, and most of the styles of court administration found throughout the province. It consists of the Judicial Districts of Halton, Haldimand, Norfolk, Niagara North, Niagara South, Waterloo and Hamilton-Wentworth, and the Counties of Brant, Dufferin and Wellington.

The Attorney General's Advisory Committee: Central West

Involvement of Judiciary

Recognizing the need for the involvement and advice of the judiciary in this project, the Attorney General, in August 1974, wrote to the Chief Justice of Ontario and to the Chief Judges of the County, District and Provincial Courts asking each to nominate a representative to a committee to advise him on the project. In October 1974, the committee held its first meeting chaired by Mr. F. W. Callaghan, Q.C., the Deputy Attorney General. The membership of the committee included Mr. Justice T. G. Zuber, representing the Supreme Court of Ontario; His Honour Chief Judge W. E. C. Colter, representing the County, District and Small Claims Courts; His Honour Judge J. L. Roberts, representing the Provincial Court (Criminal Division); and his Honour Judge J. E. Van Duzer, representing the Provincial Court (Family Division).

Liaison Group from County Law Associations

In November, 1974, the Advisory Committee and senior Ministry officials toured the Central West Region to familiarize themselves with the region and the court facilities, and to meet court administration personnel and representatives of the county law associations in the region. As a result of these meetings, a liaison group was established with representatives from each of the county law associations in the region. The Advisory Committee has met

once with all the representatives of the county law associations in the region to discuss legislation proposed to formalize the project. As a result of these discussions, the structure of the Attorney General's Advisory Committee was altered, and Central West was changed to add two representatives of the county law associations.

The Management Team

The Ontario Law Reform Commission recommended that Regional Directors of Court Administration be appointed. As this is a developmental project, it was decided that rather than appoint one person to act as Regional Director, a team, having expertise in each area of court administration, would fulfil that function while the duties and responsibilities of the position were being determined. The Management Team, appointed effective January 1, 1975, with headquarters in Hamilton, is composed of Mr. R. Chaloner, Q.C., Crown Attorney, Wellington; Mr. L. F. Chettleborough, Provincial Court (Family Division), Durham; Mr. G. A. Goldrich, Sheriff and Local Registrar, Wellington; and Mr. A. K. Mackay, Provincial Court (Criminal Division), Hamilton-Wentworth. Mr. D. H. Thornton is the Project Coordinator.

Since January 1, the Management Team has not only been assisting in the solution of current local, operational problems, but has also been reviewing the recommendations of the Ontario Law Reform Commission. It has been developing proposals for the consideration of the Advisory Committee on the means of implementing the recommendations, testing their feasibility and accomplishing the goals established by the Ontario Law Reform Commission.

Sub-Projects

Three major sub-projects have been undertaken to date. These are: caseflow manage-

ment Provincial Court (Criminal Division), standardization of office operations in the provincial court (Criminal Division) and court reporting.

Caseflow Proposal: Provincial Court (Criminal Division)

Goal of Ninety Day Limit

The Ontario Law Reform Commission recommended a ninety day limit for the completion of criminal matters from the date of arrest or summons. As an initial target, the ninety day limit has been set by the Advisory Committee for the completion of all matters before the Provincial Court (Criminal Division). This target would apply from date of arrest or summons to completion of the case by that court.

Guidelines Established

To initiate work towards the achievement of this target, some guidelines had to be drawn to assist not only in caseflow management, but also in the allocation of resources to meet the target as established. After discussions with Chief Judge Hayes of the Provincial Court (Criminal Division) and Senior Judge Roberts of the Provincial Court (Criminal Division), the Advisory Committee established the following guidelines for the Central West Region:

- (i) Provincial judges should hear all matters under the *Criminal Code* and other federal statutes.
- (ii) Qualified Category "A" justices of the peace should hear most cases involving breaches of provincial statutes and municipal by-laws except where the Crown Attorney, in consultation with the judge or justice of the peace, decides that a case is of sufficient import that it should be heard by the judge. (Guidelines are to be established relating to the types of matters that should not be heard by justices of the peace.)

Special Projects — 1974-75

- (iii) A judicial caseload for judges of the Provincial Court (Criminal Division) of 3,000 disposed cases per year, on average, was established as a guideline for the Central West Region.
- (iv) Disposition guidelines for justice of the peace courts are to be established during the course of the project.
- (v) On an experimental basis, unlogged electronic equipment may be used in courts of justices of the peace where feasible.
- (vi) A court reporter should be present in all courts presided over by a provincial judge.
- (vii) A court clerk should be present in courts presided over by a provincial judge unless the judge deems it unnecessary.

Adjournment Courts

Within these guidelines, in areas where the volume of cases permits, adjournment courts presided over by authorized justices of the peace would commence prior to the sittings of a Provincial Court judge. During these sittings, justices of the peace would hear all first appearances and all subsequent appearances until a date was set for trial unless the justice of the peace decided to adjourn the case to the sitting presided over by the judge. When a specific number of adjournments was reached or the accused wished to plead guilty, the case would be set down to the sittings of the Provincial Court judge. Immediately following the adjournment court, and no later than 10:00 a.m., a Provincial Court judge would commence a trial court, and; at this time, hear guilty pleas.

Implementing Caseload Proposals

The Advisory Committee directed the Management Team to implement these caseload proposals on a trial basis in the Judicial District of Halton and the County of Brant. The process of implementing the test programme has started in the former, with preliminary discus-

sions being held with the judges, Crown Attorneys and court administration personnel. Following these initial discussions, the Management Team has been re-evaluating some of the proposals made for Halton and, upon completion of the re-evaluation, further discussions will be held. In addition, the representatives of the county law association, Legal Aid and the police forces involved will be consulted.

Standardization of Office Operations

Manual of Operations

In 1972, the Deputy Attorney General asked three experienced court administrators from the Provincial Court (Criminal Division) to prepare a proposal for standard office procedures of that court. The Management Team has taken these proposals, reviewed them, and, in turn, prepared a draft manual of operations. A series of meetings has been held with the court administrators of the Provincial Court (Criminal Division) from within the region. At these meetings, the proposals were discussed in detail and modifications were proposed. At the same time, the proposals are being discussed with other interested Ministry personnel. Following these discussions, the standards will be revised and tested within the Central West Region, subject to the direction of the Advisory Committee.

Court Reporting

At the direction of the Advisory Committee, plans are now being developed to test the feasibility of the ten recommendations of the Ontario Law Reform Commission relevant to court reporting. One of the most important of these proposed the establishment of a panel of court reporters to serve in all the courts rather than having court reporters assigned to specific courts. The recommendations will be distributed to all regular staff court reporters in the region for discussion prior to steps being taken towards implementation.





Legislation

Administration of Courts Project Act, 1975

Legislation known as *The Administration of Courts Project Act, 1975* will be introduced to formalize the project and to allow the Advisory Committee to make the necessary changes to allow the project to function within the region, without affecting the remainder of the province.

One of the key considerations in the conduct of the pilot project is that court administration cannot operate in isolation from the other elements of the judicial process: the judiciary, the legal profession, Crown Attorneys, the police and the public.

Goal of Service to the Public

This project has been established not only to implement the recommendations of the Ontario Law Reform Commission or to make the court system more efficient, but, as the Deputy Attorney General, Mr. F. W. Callaghan, Q.C., said in his remarks upon the opening of the Assizes of Ontario in January of this year, "To realize what has been termed the 'primary goal of the court system' — service to the public by adjudicative decisions which are not only fair and just but made without delay and at reasonable cost and convenience".

Consequently, consultation with all parties will play a major role in the development and testing of the programmes undertaken. Comments will be appreciated throughout the life of this project.

The North York Traffic Tribunal

Report of Special Committee

In early March of 1973, a special committee reported to the Attorney General on a proposed new system to deal with persons charged under *The Highway Traffic Act*. Wanting to remove

those offences from the formality of the Provincial Court (Criminal Division), and seeking a method of reducing highway carnage by improving driving skills, the committee recommended that accused persons be given a choice of three ways in which their case could be handled:

- (i) Send in a signed plea of guilty by mail together with the amount of the fine as set out in the summons for those offences where the court has provided for an out-of-court settlement; or
- (ii) Attend at a "hearing room" before a "hearing officer" at any time before the appearance date noted on the summons to *enter a plea of guilty with an explanation*; or
- (iii) Attend on the appearance date to enter a plea of not guilty. At this time, while the accused could be represented by counsel, there would be no Crown prosecutor. Instead, the police officer who issued the summons would simply appear to give his evidence.

Reason for the Approach

The committee felt that this less formal approach would encourage the offender to understand his infraction in lieu of simply being punished for it. The hearing officer, at the time of passing sentence, would review with the offender his past and prospective driving habits.

Driver Training to be Available

The committee further recommended that driver training be made available to offenders on a voluntary basis at the time of their hearing. In so recommending, the committee took cognizance of the importance of rehabilitation in reducing recidivism by traffic offenders and of the ever-increasing volume of deaths, injuries and social costs arising from traffic accidents in Ontario.

Implementation

By April 1, 1973, the task of implementing the committee's recommendations had begun, with Howard F. Morton, an Assistant Crown Attorney, serving as project manager. The committee itself having included representatives from both the Ministry of the Attorney General and the Ministry of Transportation and Communications, it was decided to continue the project as an interministerial effort. The Borough of North York was chosen as the site of the pilot project.

Decriminalization of Traffic Offences

One of the main objectives of the pilot project was to remove the hearing of traffic offences from a criminal court setting. It was felt that many traffic offenders who appeared in the existing criminal court system were embarrassed and, in some cases, intimidated by that system. Moreover, the committee was of the opinion that the existing criminal court system was unable to give effect to the primary concern of *The Highway Traffic Act* which is to reduce the ever-increasing number of needless deaths and injuries which occur on Ontario's highways. The committee was of the view that the hearing of traffic offences should be held in a more informal atmosphere which concentrated on the need for rules of the road and driver improvement. This, it was hoped, would encourage a better understanding by the offender of the consequences of his infraction. This approach is best examined under the following headings:

Interior Design

The Tribunal was both designed and decorated with a view to creating an atmosphere which would have a tendency to relax offenders rather than intimidate them. The use of pleasant interior decorating techniques at the Tribunal has, in the view of the committee, clearly accomplished this aim.

Hearing Procedures

Flexibility of Hearing Time

(1) *Pleas of Guilty with an Explanation*

The offender may drop in at the Tribunal at any time after seven days of receipt of the ticket or summons, but at least one business day before the trial date, to offer a plea of guilty with an explanation. This gives the offender at least four weeks to resolve the matter at a time convenient to him. The Tribunal is open to accept pleas of guilty with an explanation from 9:00 a.m. to 9:00 p.m., Monday to Thursday, and on Fridays from 9:00 a.m. to 4:00 p.m.

Upon his arrival at the Tribunal, the offender reports to the receptionist and advises her of his intention to plead guilty with an explanation, stating his name and trial date and handing to her his summons if he has brought it with him. The offender and the original information are then taken to the hearing room. The offender proceeds to the front of the hearing room where he is seated at a T-shaped conference table across from the hearing officer. The purpose of the conference table approach is to create an atmosphere conducive to a discussion between the offender and the hearing officer concerning both the offence itself and the offender's driving habits. Only pleas of guilty are heard in this room.

Explaining Consequences of Guilty Plea

The justice of the peace (hearing officer) advises the offender of the legal consequences of a plea of guilty with an explanation; if the offender indicates that he does wish to plead guilty, the hearing officer then reads the charge to

the offender who pleads guilty and offers his explanation to the hearing officer. A discussion of the explanation then follows. It should be noted that the investigating officer is not present for pleas of guilty with an explanation.

Driving Record Examined

If the hearing officer is satisfied that the offender committed an offence, he then registers a conviction. Following conviction, the hearing officer keys the offender's driver's licence number into the visual display screen terminal positioned beside him. In a matter of seconds, a summary of the offender's driving record appears on both the hearing officer's screen and a screen located directly in front of the offender. A discussion of the offender's driving history then follows. If the hearing officer is of the view that the offender could benefit from driver training, he recommends this to the offender.

Driver Training Course

If the offender agrees to take the course, his word that he will do so is accepted and his prospective attendance is taken into account in sentencing. Usually, he is released without a fine. Thus far, fewer than 4% of those who have agreed to take the one hour course have failed to do so.

Sentencing

If the hearing officer is of the view that the offender would not benefit from driver training, or that the facts of the case or the offender's driving record does not call for it, or if the offender indicates that he does not wish to attend at the driver improvement course, then the offender is sentenced. The hearing officer may take the offender's explana-

tion into account in assessing the amount of fine to be imposed. This fine may be less than the minimum prescribed by statute for that offence.

Advantages

This separate streaming of pleas of guilty has been found to be advantageous both in terms of effectiveness and of cost. It does away with the need and cost of a full trial where an offender feels he has committed the offence, but wishes to explain why it occurred. Further, it allows him to attend and make this explanation at a time convenient to him. It frees other courts for actual trials, encourages a better relationship between the offender and the administration of justice, and does away with the need for police officers to attend and give evidence on that particular offence. As well, the only court officer required is a justice of the peace.

(2) Pleas of Not Guilty

Where an accused person wishes to enter a plea of not guilty, he attends on the summons date for his "trial".

Informality

Informality and the need for driver improvement are again stressed. Each session commences with an opening statement by the justice of the peace of approximately five minutes duration in which the hearing room procedure is explained. Emphasis is placed on the need for driver improvement, with Ontario driving statistics being cited.

No Prosecutor

The justice of the peace is seated at a dais from which two wings project, each

with a chair for a witness. When an accused's case is called, he and the police officer come forward, each taking a seat in one of the wings facing the justice of the peace. There is no prosecutor; while the offender may cross-examine the police officer, only the justice of the peace may question the accused. If the accused is found to have committed the offence, the record review system, discussion, and offer of the driver improvement course are the same as in the event of a plea of guilty with an explanation.

(3) *Accident Cases*
Prosecutor where Accident has Resulted

All of the above mentioned principles are utilized where the traffic offence has resulted in an accident, with the exception that a prosecutor is present to conduct the case for the Crown.

Innovations

In all of the hearing rooms, the following innovations are being implemented:

- (a) There are no court reporters; rather, the evidence is recorded on cassette tape recorders.

Honour System

- (b) In other traffic courts, when a fine is imposed, a police officer escorts the offender to the cashier to pay the fine. This system was disliked both by offenders who felt the implication was that they were dishonest, and by the police officer who felt that he was a debt collector. At the Tribunal, an honour system has been adopted whereby an offender is given a slip of paper indicating the amount of the fine. He takes this to the cashier and pays his fine.

Print-out of Driving Record

- (c) Whenever an offender's driving record is "called up" on the video screen in the hearing room, a hard copy printer located in the driver improvement area prints out a copy of the record for the offender to take with him.

The Driver Improvement Centre

Objective of Improving Driving Habits

One of the chief objectives of the pilot project was to implement a driver improvement programme as part of the Tribunal structure in such a way that it is an integral part of the sentencing process.

In the past, by adapting the criminal process to traffic offences, a convicted offender would simply be fined and sent back on the road. Although a certain number of demerit points would be registered on his driving record as a result of his conviction, the court would not communicate this to the offender, who would not be called on to discuss his driving habits until he had accumulated nine or more points in a two year period. It is hoped that by appearing in a tribunal where his driving habits are the predominant concern, both in the hearing room and the driver training classrooms, the offender will become aware of the need for him to improve his driving habits.

Driver Improvement Programme

The Ministry of Transportation and Communications has developed a driver improvement programme for use at the pilot project. The programme is a one hour on-the-spot session which is offered on a voluntary basis to offenders



found guilty of a minor traffic offence. There are two driver training classrooms at the Tribunal. The programme is taught at straddled hours in both classrooms so that it will be available to offenders with a minimum amount of delay.

Second Course

A second and more detailed course consisting of three 2½ hour sessions has also been developed by the Ministry of Transportation and Communications. The content of this course is aimed at offenders with more serious driving records. It is hoped that this course will be introduced at a later stage in the pilot project.

At the outset of the project, driver training was only offered to offenders convicted of "minor traffic" offences. At a later stage of the project, driver training was also offered to offenders convicted of "accident offences" and careless driving, etc. It should be noted, however, that the Centre will accommodate any person requesting to take the course on a guest basis.

Four driver training instructors have been hired and are under the direction of a driver-training supervisor at the Tribunal. All of the instructors have several years driver-training teaching experience in the armed forces.

Evaluation

Success

Since its inception, the North York Traffic Tribunal has been under careful analysis and review. The results of these studies, which point to the project being an outstanding success, may be summarized as follows:

Public Reaction

- (1) Subjective comparison by offenders themselves indicated that the North York Traffic Tribunal was well accepted as an alternate method of dealing with traffic offences.
- (2) Objective comparisons of the written comments received strongly reinforced the above point.
- (3) Objective comparisons of survey results indicated a significantly more favourable reaction to the justices of the peace at the North York Traffic Tribunal and a slightly less favourable picture of the police officers.

Better Public Understanding

- (4) Subjects at the North York Traffic Tribunal rated themselves as having understood the court procedures much better.

Less Police Time

- (5) All indications are that police officers are having to spend less time in court.

Fewer Trials

- (6) Of the accused who choose to come to court, more are electing not to have a trial, and are instead taking advantage of the opportunity to plead guilty with an explanation. This is not only resulting in savings of cash and time, but is also encouraging drivers to come to the Tribunal to discuss and improve their driving abilities.

Reduced Backlog

- (7) A comparison of the time within which offences were processed at the Tribunal and at test locations in Willowdale and Scarborough indicated that the Tribunal

has sharply reduced the backlog. The disposition date from the date of offence has levelled off at approximately 41 to 45 days, which is substantially better than under the regular system in Scarborough, which on an average is approximately 18 to 20 days longer and in many cases exceeds 100 days. In addition, studies indicate that the use of the existing system in Scarborough is resulting in a gradual lengthening of the disposition date for a majority of the offences.

Better Use of Facilities

- (8) The use of the five sittings per day allows for more actual hearing time for offences and a more intensive use of the physical facilities.

Acceptance of Driver Improvement Programme

- (9) There has been a very substantial acceptance of the driver improvement programme, including the attendance at the programme on a walk-in basis of other members of the families of offenders and friends of offenders who have heard about the programme.

Beneficial Effects

- (10) There is a general positive public reaction to the Tribunal. The concept of the Tribunal seems to have had a beneficial effect on the justices of the peace, the administrative support staff and the police, with the result that the appearance of the administration of justice has been substantially improved.

Boards and Commissions

Assessment Review Court

Chairman:	E. K. Pukacz
Vice-Chairman:	R. D. Baxter
Vice-Chairman (Part-time):	S. R. McNeil

Function

The object of this court is to provide an appeal procedure for the review and determination of equitable real property assessment in Ontario. The workload of the court is dependent upon the number of persons who appeal their assessment as a result of the actions of the assessment division of the Ministry of Revenue and the local taxing authorities.

In previous years, most hearings were concentrated between October 1st and December 31st of each year. By reason of the defreezing of the assessment roll in 1974 for the municipal taxation year 1975, the concentration of hearings is now between January 20th and May 31st. This arrangement, which arises from recent amendments to *The Assessment Act*, will continue for future years.

1970. At the present time, the court is processing and hearing approximately 70,000 appeals arising from these notices together with approximately 25,000 appeals against supplementary assessment notices and tax applications.

On December 2nd, 1974, by proclamation, the District of Manitoulin and the east part of the District of Parry Sound were assessed at market value. Assessment appeals in Manitoulin have been heard as have those in east Parry Sound.

New Data Processing System

During 1974, the data processing system used by the court to process appeal information was implemented by initiating a procedure known as optical character recognition. The installation of equipment for this purpose in the various court offices operated by our own personnel has eliminated the need for outside keypunching services and has enabled the court to maintain a more effective control of the whole operation.

Educational Seminars with Active Court Members

In addition, during the past year, local seminars were held with all active court members to discuss court practices and procedures and to inform them of changes in legislation which have effected the operation of the court. The seminars were part of a process of continuing education to endeavour to achieve a high degree of competence amongst the members and a general standardization of practices of the court in all parts of the province. In this regard, the Members' Manual of Instruction concerning practice and procedure is being completely revised and updated. There are at present 149 active members of the court throughout the province.

Statistics on the Assessment Review Court follow.

Market Value Assessment

Activities in the past year included the following: On March 1st, 1974, by proclamation, the County of Grey (except the City of Owen Sound), the District of Muskoka, the west part of the District of Parry Sound and the Town of Wasaga Beach were assessed at market value. Approximately 10,795 appeals from these assessments were processed and heard during the spring months by the court. There were 662 appeals from the decisions of the courts to the county and district judges.

In December 1974, pursuant to amendments to *The Assessment Act*, assessment notices were sent to all assessed persons, including tenants, in the province. This was the first time that new assessment rolls had been returned to the municipality since the rolls were frozen in

Summary of Assessment Review Court Appeals

	1972-73	1973-74	1974-75
Section 52 of The Assessment Act (I)	33,727	40,538	70,221
Sections 42/43/44 of The Assessment Act (II)	4,364	4,841	12,449
Section 636A of The Municipal Act (III)	10,272	10,552	13,176
Total	48,363	55,931	95,846
FOOTNOTES: (I) This section deals with errors or omissions in assessment rolls. (II) This section deals with assessments omitted from collector's rolls. (III) This section deals with the cancellation, reduction or refund of taxes.			

Board of Negotiation

Acting Chairman: W. C. Dymond

Members: J. M. Bennett
J. A. Ferguson
F. L. Heaman
W. J. Mowat
L. J. Schedlin

Function

The Board of Negotiation was created by the provisions of *The Expropriations Act, 1968-69*. It provides an informal tribunal which, without prejudice to any subsequent arbitration procedures, may negotiate in a summary and informal manner of settlement of a compensation in expropriation cases.

Informality

The Board, upon receiving a written request from either party, arranges meetings between the expropriated party and the expropriating authority. A formal notice is issued to both parties, advising them of the time and place of the meeting, which can be held throughout the province without cost to either party. A unique provision of the Act provides that the Board shall view the property in question.

An individual may appear on his own behalf to present his compensation claim. If no agreement follows these informal negotiations, the parties are free to proceed to arbitration to the Ontario Land Compensation Board.

Following is a statistical review for the fiscal year 1974-75.

Boards and Commissions

Board of Negotiation

Activity Report — Fiscal Year April 1, 1974 - March 31, 1975

Expropriating Party	Number of Applications
Board of Education Waterloo County	1
Borough of Etobicoke	1
Borough of York	1
City of Belleville	1
Brampton	2
Burlington	1
Chatham	1
Guelph	2
Hamilton	4
Kingston	2
London	1
Ottawa	2
St. Thomas	2
Thunder Bay	9
Vanier	1
Welland	25
Conservation Authorities Credit Valley	11
Grand River	25
Mattagami Region	6
Napanee Region	1
County of Elgin	1
Haliburton	1
Middlesex	5
Oxford	2
Peel	4
Metropolitan Toronto Separate School Board	1
Ministry of Environment	1
Government Services	5
Housing	7
Transportation and Communications	62
Municipality of Metropolitan Toronto	25
Municipality of Metropolitan Toronto — Subway Committee	1
Niagara Parks Commission	1
Ontario Hydro	10
Regional Municipality of Halton	1
Niagara	2
Ottawa-Carleton	43
York	10
Peel	7
Town of Cobourg	1
Grimsby	3
Midland	1
Oakville	2
Township of Bayham	1
Union Gas Company of Canada Limited	2

Board of Negotiation

	1973-74	1974-75
Requests for Hearings	256	298
Hearings Held	222	283
Outstanding	35	34

Criminal Injuries
Compensation Board

- Chairman: Eric Silk, Q.C.
- Vice-Chairman: Shaun MacGrath
- Vice-Chairman (part-time): R. C. Rutherford, Q.C.
- Member (part-time): Judge V. K. McEwan
- Member (part-time): A. R. Willmott, Q.C.
- Member (part-time): Anne Austin
- Member (part-time): S. D. Cork

The Criminal Injuries Compensation Board, composed of seven members from business, law and the academic field, administers *The Compensation for Victims of Crime Act, 1971*, the successor to *The Law Enforcement Compensation Act, 1967*:

Function

The Board decides upon the eligibility of applicants for compensation as well as the amount of compensation to be awarded. Compensation is awarded, for personal injury only, when a person in Ontario is injured or killed as a result of a crime of violence which is an offence against the *Criminal Code* of Canada. Such offences include assault, wounding, murder, rape and various others. Injury caused by a motor vehicle is excluded from the Act unless the vehicle is used to commit an assault. Compensation may also be awarded where an injury is sustained while lawfully arresting or attempting to arrest a

person for an offence against another person; assisting a law enforcement officer in the performance of his duties; or preventing or attempting to prevent an offence against another person.

Increasing Public Convenience

In the past fiscal year, the Board, seeking to increase public convenience, made a more general practice of holding sittings outside of Toronto. Sittings were held in Kenora, Thunder Bay, Sault Ste. Marie, Timmins, Elliot Lake, Sudbury, Ottawa, Woodstock, London and Windsor. Plans are being made to pursue this decentralized system of sittings wherever feasible.

Towards Uniformity of Awards

One of the main problems of the Board is maintaining the maximum degree of uniformity in awards for pain and suffering. To this end, special studies were undertaken in the summer of 1974, utilizing the services of law students. These studies resulted in digests of all decisions of the Board from the time of the establishment of its predecessor in 1967. Additionally, a specially designed index of the digests was prepared; both digest and index have been reproduced for Board members.

Board's Annual Report

In addition to the Board's annual report, which is available from the Criminal Injuries Compensation Board, a brochure was produced which details eligibility and the application process. These brochures, which are presently being translated into French and Italian, are available in court offices, police stations, hospitals, legal aid offices, doctors' offices, lawyers' offices and a number of public places.

Following is a comparative summary for the fiscal years 1972-1973, 1973-74 and 1974-75.

Boards and Commissions

Comparative Summary for Fiscal Years

Applications and Disposition

	1972-73	1973-74	1974-75
Eligible Applications Received	486	510	639
Applications Heard (1)	461	386	381
Applications Heard and Dismissed	51	22	40
Applications Heard — Further Evidence Required	13	5	6
Second Hearings	3	4	8
Review of Awards	4	1	1
Decisions Completed and Awards Ordered (2)	433	402	349
Interim Awards	6	3	Nil
Supplementary Awards	16	27	12
Periodic Awards	19	10	16
Lump Sum Payments	\$556,831.44	\$591,944.26	\$561,114.03
Periodic Payments	\$ 74,339.00	\$130,963.07	\$165,814.00
Total of Awards Ordered	\$631,170.44	\$722,637.33	\$726,928.03
Average Award (3)	\$ 1,285.98	\$ 1,472.50	\$ 1,607.77
Hearings Pending	393	426	599

NOTE: (1) Includes Heard and Dismissed and Heard and Further Evidence Required.
(2) Includes Interim, Supplementary and Periodic Awards.
(3) Periodic Payments not included when arriving at Average Award.

Land Compensation Board

Chairman: J. S. Yoerger, Q.C.
Vice-Chairman: Roy M. Grant, Q.C.
Vice-Chairman: Gordon W. Ford, Q.C.
Members: G. M. Hobart D. W. Middleton
G. P. Marriott E. H. Reed
J. A. McConaghy G. Campbell

Based on Market Value

Claims for compensation are based upon the market value of the land expropriated. As well, claims may be made for damages attributable to disturbance, injurious affection to the remaining land of the claimant, personal and business losses, and in respect of any special difficulties in relocation.

Sole Arbitration Tribunal

The Land Compensation Board, established in December, 1970 by the proclamation of Section 28 (1) of *The Expropriations Act*, is the sole arbitration tribunal in the Province of Ontario determining compensation. Its jurisdiction supplants that of the county judges, the Ontario Municipal Board and official arbitrators.

Purely Judicial Function

The assessment of compensation is purely a judicial function. It requires knowledge of the relevant law and its application to the proven facts and expert opinions adduced in evidence. The Chairman or Vice-Chairman and two other members constitute a quorum of the Board, which holds sittings in any centre in Ontario.



Boards and Commissions

Cases Reported

The Board is required to prepare written reasons for its decisions. These are reported in a publication entitled "Land Compensation Report", which is commercially published. In addition, decisions of this Board are

circulated regularly to university and law libraries, legislative libraries and county law libraries and the press.

Following are statistics on the activities of the Board in recent fiscal years with a full report on the fiscal year 1974-75.

Land Compensation Board Statistical Data With Comparative Information
Relevant to Board Activities in the Years 1972-73, 1973-74, 1974-75

Notices of Arbitration	72-73	73-74	74-75
Applications received	99	79	132
Applications completed:			
(a) by arbitration	46	26	33
(b) by settlement	28	73	45
Written Decisions of the Board	46	26	33
Notices of Motion	72-73	73-74	74-75
Applications received	15	25	22
Written Rulings of the Board	7	12	19

Land Compensation Board Report of Operations
For the Fiscal Year 1974-75

Notices of Arbitration

Filed with the Board		132
Hearings completed		23
In Metropolitan Toronto		
In London	12	
In Windsor	2	
In Belleville	3	
In Ottawa	1	
In Sudbury	2	
In St. Thomas	1	
In Chatham	1	
	23	
Total amount claimed		\$6,564,648
Total amount awarded		\$4,737,808

Notices of Motion

Filed with the Board	23
Completed	22
Abandoned	1
To Be Heard	0

Office of the Official Guardian

Function

The Official Guardian provides legal services for minors, and occasionally for unborn and unascertained persons, to ensure effective representation of their rights and claims before the courts.

Furthermore, the Official Guardian is apprised of new trends and developments in child law and attempts to meet related responsibilities consistent with his present jurisdiction.

Activities

The activities of the Official Guardian break down into four main categories:

- (1) Legal services rendered in the Surrogate Court with respect to claims and audits of estate accounts;
- (2) General counsel work in all other courts in Ontario including the Supreme Court of Canada;
- (3) Processing payments from all sources into the Office of the Accountant of the Supreme Court of Ontario to the credit of minors, and, when appropriate, arranging for payments out of court for their maintenance, medical, educational and dental expenses.
- (4) Preparation of reports for the benefit of the court in determining custody in divorce proceedings when "children of the marriage" are involved.

Increasing Demand

Overall, the work of the Official Guardian has expanded considerably in recent years. Nine new employees were added in the last fiscal year to meet the demand for services. In fiscal 1974, 15,804 new cases were taken on by the Official Guardian, up more than 19% from 1971.

Boards and Commissions

Part I Annual Report of Operations for the Fiscal Year 1974-75

The statistical data for the fiscal year 1974-75 and for the calendar years 1971 to 1973 inclusive is as follows:

1. Surrogate Court Audits	1971 — 734 — (<i>Increase in 1971</i>) —	9
	1972 — 629 — (<i>Decrease in 1972</i>) —	105
	1973 — 653 — (<i>Increase in 1973</i>) —	24
	1974 — 624 — (<i>Decrease in 1974</i>) —	29
2. Matrimonial Causes New Matters	1971 — 8,246 — (<i>Increase in 1971</i>) —	250
	1972 — 9,612 — (<i>Increase in 1972</i>) —	1,366
	1973 — 10,342 — (<i>Increase in 1973</i>) —	730
	1974 — 11,998 — (<i>Increase in 1974</i>) —	1,656
3. Number of Payments Into Court	1971 — 365 — (<i>Increase in 1971</i>) —	—
	1972 — 244 — (<i>Decrease in 1972</i>) —	121
	1973 — 218 — (<i>Decrease in 1973</i>) —	26
	1974 — 188 — (<i>Decrease in 1974</i>) —	30
4. New Fiats Authorizing Payments out of Court for Maintenance and Other Purposes	1971 — 799 — (<i>Decrease in 1971</i>) —	11
	1972 — 502 — (<i>Decrease in 1972</i>) —	297
	1973 — 370 — (<i>Decrease in 1973</i>) —	137
	1974 — 295 — (<i>Decrease in 1974</i>) —	75
5. Number of Payments out of Court Pursuant to Existing Fiats	1971 — 1,637 — (<i>Decrease in 1971</i>) —	47
	1972 — 1,527 — (<i>Decrease in 1972</i>) —	110
	1973 — 1,783 — (<i>Increase in 1973</i>) —	256
	1974 — 1,583 — (<i>Decrease in 1974</i>) —	200
6. General Counsel Work in Matters Arising out of: The Child Welfare Act; The Dependants' Relief Act; The Devolution of Estates Act; The Dower Act; The Fatal Accidents Act; The Highway Traffic Act; The Infants Act; The Insurance Act; The Mortgages Act; The Partition Act; The Settled Estates Act; The Surrogate Courts Act; The Trustee Act; The Variation of Trusts Act and The Wills Act.	1971 — 1,251 — (<i>Decrease in 1971</i>) —	50
	1972 — 1,129 — (<i>Decrease in 1972</i>) —	122
	1973 — 1,029 — (<i>Decrease in 1973</i>) —	100
	1974 — 1,116 — (<i>Increase in 1974</i>) —	87
7. New Miscellaneous Matters Numerous attendances, telephone inquiries and extensive correspondence, both with solicitors and the general public, pertaining to the solving of problems relating to the personal and financial welfare of infants.		
8. Summary of the Total Number of New Matters and Cases in the Years	1971 — 13,256	
	1972 — 13,643	
	1973 — 14,395	
	1974 — 15,804	

Part II Programme of Operations for the Fiscal Year 1975-76

The office of the Official Guardian does not nor does it attempt to develop new programmes and activities. The office for practical purposes simply renders legal services on behalf of persons under a disability consisting mainly of minors under the age of eighteen years.

The forecast of the programmes and activities for the fiscal year 1975-76 and for each of the three succeeding years are as follows:

1. Surrogate Court Audits	1975-76	630
	1976-77	650
	1977-78	650
	1978-79	650
2. Matrimonial Causes New Matters	1975-76	13,500
	1976-77	14,500
	1977-78	15,500
	1978-79	16,500
3. Number of Payments into Court	1975-76	209
	1976-77	225
	1977-78	225
	1978-79	225
4. New Fiats Authorizing Payments out of Court for Maintenance and Other Purposes	1975-76	298
	1976-77	400
	1977-78	425
	1978-79	450
5. Number of Payments out of Court Pursuant to Existing Fiats	1975-76	1,729
	1976-77	2,000
	1977-78	2,100
	1978-79	2,200
6. General Counsel Work	1975-76	1,200
	1976-77	1,250
	1977-78	1,300
	1978-79	1,350

Boards and Commissions

Ontario Law Reform Commission

Chairman: H. Allan Leal, Q.C., LL.M., LL.D.

Vice-Chairman: Honourable James C. McRuer,
P.C., LL.B., LL.D.

Members: Honourable Richard A. Bell,
P.C., Q.C.
W. Gibson Gray, Q.C.
William R. Poole, Q.C.

Function

The Ontario Law Reform Commission was established in 1964 to enquire into and consider any matters relating to:

- (1) reform of the law having regard to statute law, the common law and judicial decisions;
- (2) the administration of justice;
- (3) judicial and quasi-judicial procedures under any Act; or
- (4) any subject referred to it by the Attorney General.

Reports from the Commission on matters initiated by it and other subjects referred to it by the Attorney General have been made over the past 11 years. Many have formed the basis for either new legislation or amendments to existing statutes, including *The Condominium Act*, *The Expropriations Act*, *The Age of Majority and Accountability Act*, civil rights legislation and family law legislation.

Report on Support Obligations

In the past fiscal year, the Commission devoted a majority of its time and efforts to the completion of the research and the preparation of the Report on Support Obligations in the Family Law Project. In addition, the Commission initiated a study of the International Convention Providing a Uniform Law on the Form of the International Will and continued work in a number of other areas including the Minister's references on *The Sale of Goods Act*, *The Religious Institutions Act*, *The Mortmain and*

Charitable Uses Act and the Commission's initiated projects on *The Change of Name Act* and the Law of Property Project.

As in previous years, the Ontario Law Reform Commission has continued its liaison with other law reform agencies throughout the world. This included visits of officials from Australia, New Zealand, Prince Edward Island and Alberta.

Full Report Available

A full report for the fiscal year 1974-75 is available from the Law Reform Commission.

Ontario Municipal Board

Chairman: W. H. Palmer

Vice-Chairman (Administration): R. M. McGuire

Vice-Chairman: A. H. Arrell, Q.C.

Vice-Chairman: D. Jamieson

Vice-Chairman: W. Shub, Q.C.

Vice-Chairman: F. G. Blake

Vice-Chairman: A. L. McCrae

Jurisdiction

The Ontario Municipal Board draws its jurisdiction from *The Ontario Municipal Board Act*, *The Planning Act*, *The Secondary Schools and Boards of Education Act*, *The Public Transportation and Highway Improvement Act* and *The Assessment Act*.

Independent Tribunal

The Board is not an arm of the government, but rather is an independent administrative tribunal exercising a wide jurisdiction in relation to municipalities. In essence, it is responsible for the sound growth and development of Ontario's municipalities as provided for by the Legislature, with particular emphasis on economic stability. The operations of the Board fall into five discreet roles:

Five Roles

- (i) as a quasi-judicial tribunal — for example, acting as the final appeal tribunal in assessment matters;
- (ii) performing an administrative role in the validation of municipal debenture by-laws and the certification of the validity of debentures;
- (iii) performing a ministerial role in deciding upon the creation, dissolution, annexation and amalgamation of municipalities;
- (iv) exercising a financial supervisory role in approving capital expenditures and projects of municipalities; and
- (v) undertaking a planning role under *The Planning Act* in reviewing zoning by-laws and the like.

Appeals

In all matters of law and jurisdiction, appeals lie to the Divisional Court; in most matters, a party may also appeal by way of petition to the Lieutenant Governor in Council. In the year ending December 31st, 1974, the Board held hearings on 2,142 applications and appeals, while a total of 6,995 orders were prepared and issued.

Annual Report Available

The Board's Annual Report is available from its offices.

Public Trustee

F. J. Maher, Q.C., Public Trustee

Duties

Funds in excess of \$120,000,000.00 were the responsibility of the Public Trustee at the end of the fiscal year. His duties include the administration of the estates of mentally incompetent persons in provincial psychiatric facilities, nursing homes and homes for special care, and the administration of the estates of persons

who die leaving no next-of-kin or heirs-at-law in the province. Additionally, under *The Charities Accounting Act* and other relevant statutes, the Public Trustee has a duty to protect the rights of charities. A survey of charitable trusts is maintained to ensure that they are properly administered in accordance with the applicable laws.

Special Trusts

In past years, the Public Trustee has also acquired an increasing number of special trusts. These are gained by accepting requests from the public to exercise powers of attorney, by becoming committee for persons under *The Mental Incompetency Act*, by the direction of a court, or by allocation under *The Workmen's Compensation Act* and *The Compensation for Victims of Crime Act*. Further, under *The Cemeteries Act*, the office continues to acquire funds for administration in connection with the perpetual care of cemeteries.

Other Responsibilities

Under *The Business Corporations Act*, the office takes on trusts on the winding up of corporations where there are creditors or shareholders entitled to distributions whose whereabouts are unknown. It also acts on behalf of the Crown with respect to the forfeiture of assets of corporations whose charters have been dissolved.

I.O.S. Investment Fund

One of the major corporate transactions with which this office is currently involved concerns the I.O.S. complex. It was agreed by the Liquidators and the Intergovernmental Committee that this office should take over the shares owned by people around the world pursuant to their investment in the I.O.S. Investment Fund. These shares are presently held by the Bank of New York as custodian. Subject to the approval of the courts, these

Boards and Commissions

assets will be released to the Public Trustee who will then have the responsibility of distributing them to the shareholders pro rata. In the past year, this office, in connection with the cancellation of the charter of Transglobal Financial Services Limited, succeeded in completing a sale of its major asset, realizing nearly \$10,000,000.00. Some of these funds must be held in escrow in Luxembourg and Holland as security for claims which are pending against Transglobal.

No Increase in Staff

Despite an increase of some 9% in the assets administered by this office for patients and Crown estates, it has continued to function smoothly without an increase in its staff of 155. As responsibilities continue to increase at a steady rate, a feasibility study is being conducted with a view to reorganizing the office's operations to ensure the continuation of effective public service.

Comparative Statement of Earnings and Expenses as at March 31st

	1975	1974	1973
Fees: Patients' Estates	\$ 741,177	\$ 650,610	\$ 672,343
Crown Estates	332,860	290,034	266,895
Special Trusts	87,909	70,648	60,905
Company Trusts	11,217	10,772	9,233
Cemetery Trusts	13,164	11,301	9,692
Charities	52,809	36,019	27,728
Total Fees	1,239,136	1,069,384	1,046,796
Bank Interest	10,482	12,351	4,603
Profit from Investment Fund Account	1,358,599	1,247,834	1,517,046
	2,608,217	2,329,569	2,568,445
Less — Debit Balances Written Off	68	328	231
Gross Earnings	2,608,149	2,329,241	2,568,214
Less — Operating Expenses	1,900,000*	1,736,989	1,680,568
NET EARNINGS FOR YEAR	\$ 708,149	\$ 592,252	\$ 887,646

Investment Fund Account as at March 31st

	1975	1974	1973
Bonds at Amortized Cost	\$ 67,983,056	\$60,981,596	\$54,280,254
Accrued Interest Received	1,293,646	1,071,902	965,024
Cash in Bank	3,298	21,502	14,722
	<u>\$69,280,000</u>	<u>\$62,075,000</u>	<u>\$55,260,000</u>
Interest Earned on Investments	\$ 4,586,351	\$ 3,695,367	\$ 3,519,513
Interest Earned on Bank Accounts	37,790	31,581	50,513
	<u>4,624,141</u>	<u>3,726,948</u>	<u>3,570,026</u>
Less: Interest Allowed	2,713,118	2,338,134	2,052,980
Book Loss on Exchange of Securities	552,424	140,980	—
Net Earnings	<u>\$ 1,358,599</u>	<u>\$ 1,247,834</u>	<u>\$ 1,517,046</u>

Securities Held for Investment Fund Account as at March 31st, 1975

	Total Par Value	Total Book Value	March 31, 1975 Market Value
Ontario Hydro	\$48,225,000	\$47,842,618	\$44,328,010
Province of Ontario	20,260,000	19,990,438	17,117,775
Government of Canada	150,000	150,000	134,400
	<u>\$68,635,000</u>	<u>\$67,983,056</u>	<u>\$61,580,185</u>

Assets Under Administration

	1975	1974	1973
	\$127,467,649	\$111,573,389	\$99,329,671



Acts Administered by the Ministry of the Attorney General

Absonding Debtors Act
Absentees Act
Accidental Fires Act
Accumulations Act
Administration of Justice Act
Age of Majority and Accountability Act, 1971
Aliens' Real Property Act
Arbitrations Act
Architects Act
Assessment Act
Assessment Review Court Act, 1972
Assignments and Preferences Act

Bail Act
Barristers Act
Bulk Sales Act
Business Records Protection Act

Change of Name Act
Charitable Gifts Act
Charities Accounting Act
Children's Maintenance Act
Commissioner for Taking Affidavits Act
Compensation for Victims of Crime Act, 1971
Constitutional Questions Act
Conveyancing and Law of Property Act
Costs of Distress Act
County Court Judges' Criminal Courts Act
County Courts Act
County Judges Act
Creditors' Relief Act
Crown Administration of Estates Act
Crown Agency Act
Crown Attorneys Act
Crown Witnesses Act

Dependants' Relief Act
Deserted Wives' and Children's
Maintenance Act
Devolution of Estates Act
Disorderly Houses Act
Dominion Courts Act
Dower Act

Escheats Act
Estreats Act
Evidence Act
Execution Act
Expropriations Act
Extra-Judicial Services Act

Factors Act
Family Law Reform Act, 1975
Fatal Accidents Act
Fines and Forfeitures Act
Fraudulent Conveyances Act
Fraudulent Debtors Arrest Act
Frustrated Contracts Act

Gaming Act
General Sessions Act

Habeas Corpus Act
Hospitals and Charitable Institutions
Inquiries Act
Hotel Registration of Guests Act

Infants Act
Innkeepers Act
Interpretation Act

Judges' Orders Enforcement Act
Judicature Act
Judicial Review Procedure Act, 1971
Juries Act, 1974
Justices of the Peace Act

Landlord and Tenant Act
Law Society Act
Legal Aid Act
Legitimacy Act
Libel and Slander Act
Limitations Act
Lord's Day (Ontario) Act

Married Women's Property Act
Master and Servant Act
Matrimonial Causes Act
Mechanics' Lien Act
Mental Incompetency Act
Mercantile Law Amendment Act
Ministry of the Attorney General Act (formerly
Department of Justice Act)
Minors' Protection Act
Mortgages Act
Municipal Conflict of Interest Act, 1972

Negligence Act
Notaries Act

Ontario Law Reform Commission Act
Ontario Municipal Board Act

Parents' Maintenance Act
Partition Act
Partnerships Act
Pawnbrokers Act
Perpetuities Act
Petty Trespass Act
Powers of Attorney Act
Proceedings Against the Crown Act
Professional Engineers Act
Property and Civil Rights Act
Provincial Courts Act
Public Accountancy Act
Public Authorities Protection Act
Public Halls Act
Public Inquiries Act, 1971
Public Institutions Inspection Act, 1974
Public Officers Act
Public Officers' Fees Act
Public Trustee Act

Quieting Titles Act

Reciprocal Enforcement of Judgments Act
Reciprocal Enforcement of Maintenance
Orders Act
Regulations Act
Religious Institutions Act
Replevin Act

Sale of Goods Act
Seduction Act
Settled Estates Act
Sheriffs Act
Short Forms of Conveyances Act
Short Forms of Leases Act
Short Forms of Mortgages Act
Small Claims Courts Act
Solicitors Act
Statute of Frauds
Statutes Act
Statutory Powers Procedure Act, 1971
Summary Convictions Act
Surrogate Courts Act
Survivorship Act

Ticket Speculation Act
Time Act
Trustee Act

Unconscionable Transactions Relief Act
University Expropriation Powers Act

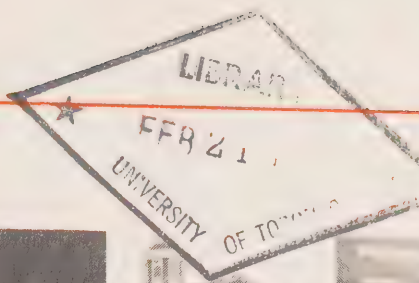
Variation of Trusts Act
Vendors and Purchasers Act
Vexatious Proceedings Act
Vicious Dogs Act

Wages Act
Warehousemen's Lien Act
White Cane Act
Wills Act

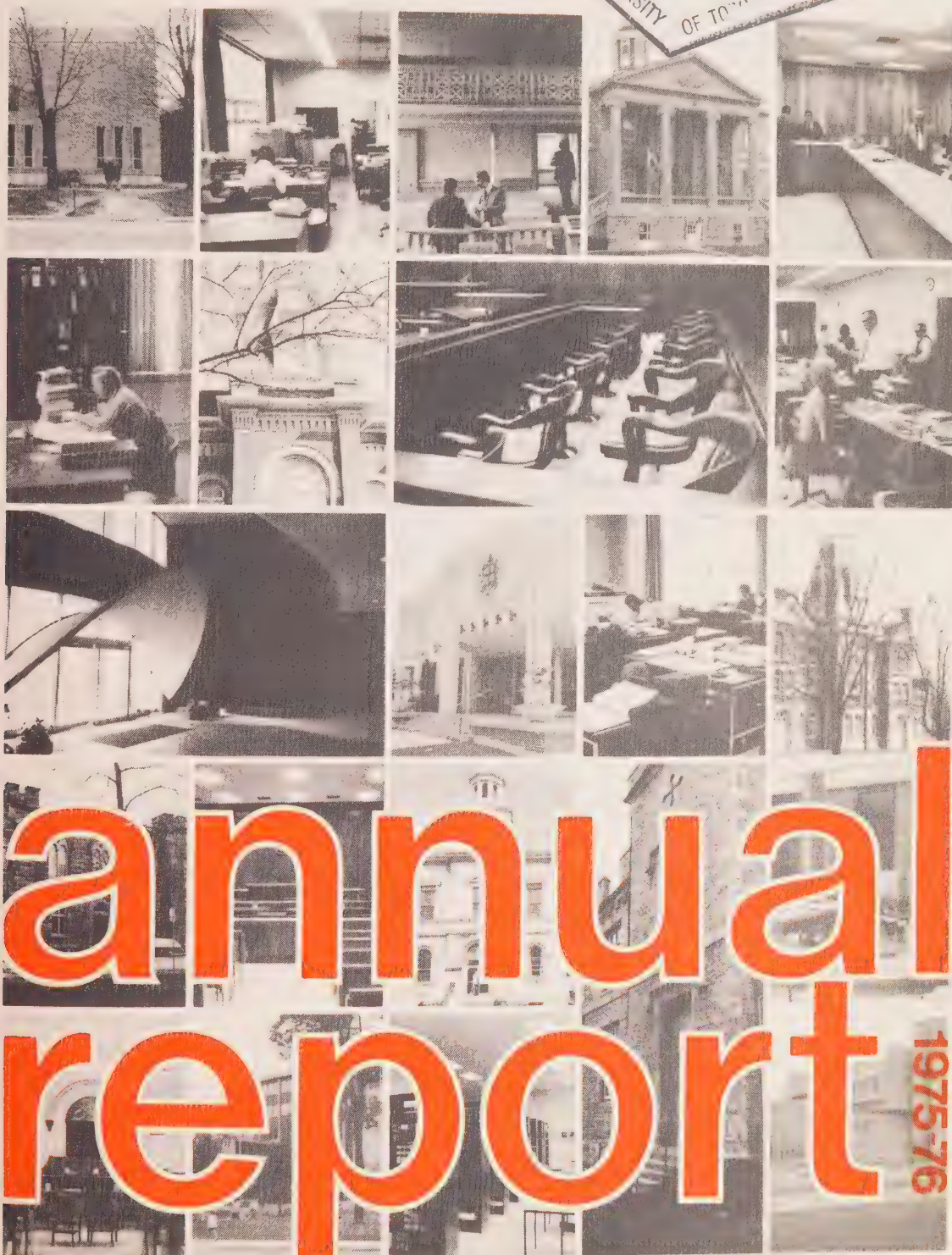
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Ministry of the
Attorney
General



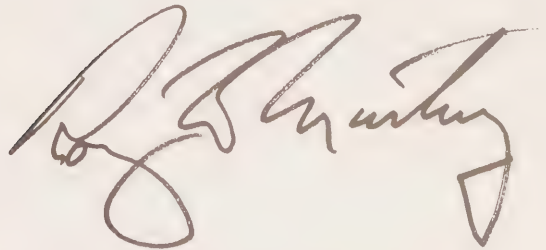
Continued
from page 1



To Her Honour the Lieutenant Governor
in Council

May it please Your Honour:

It is my pleasure to present to your Honour
the Annual Report of the Ministry of the
Attorney General for the year 1975-76.

A handwritten signature in dark ink, appearing to read 'R. Roy McMurtry'. The signature is fluid and cursive, with a large loop at the end.

The Honourable R. Roy McMurtry, Q.C.
Attorney General



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Letter from the Deputy Attorney General

December 15th, 1976

The Honourable R. Roy McMurtry, Q.C.
Attorney General
18th floor, 18 King Street East
Toronto, Ontario

Dear Sir:

I have the honour to submit to you the second Annual Report of the Attorney General for the Province of Ontario pursuant to the provisions of section 7 of the Ministry of the Attorney General Act, R.S.O. 1970, c. 166 as amended by S.O. 1971, c. 1, s. 9 (previously entitled The Department of Justice Act).

This report covers the year 1975-76 which was a period of intense activity in the Ministry. While the report provides an excellent summary of the Ministry's activities, it cannot adequately reflect the loyalty, support and tireless energy of the many employees of the Ministry who are dedicated to the effective administration of Justice in Ontario.

All of which is respectfully submitted.

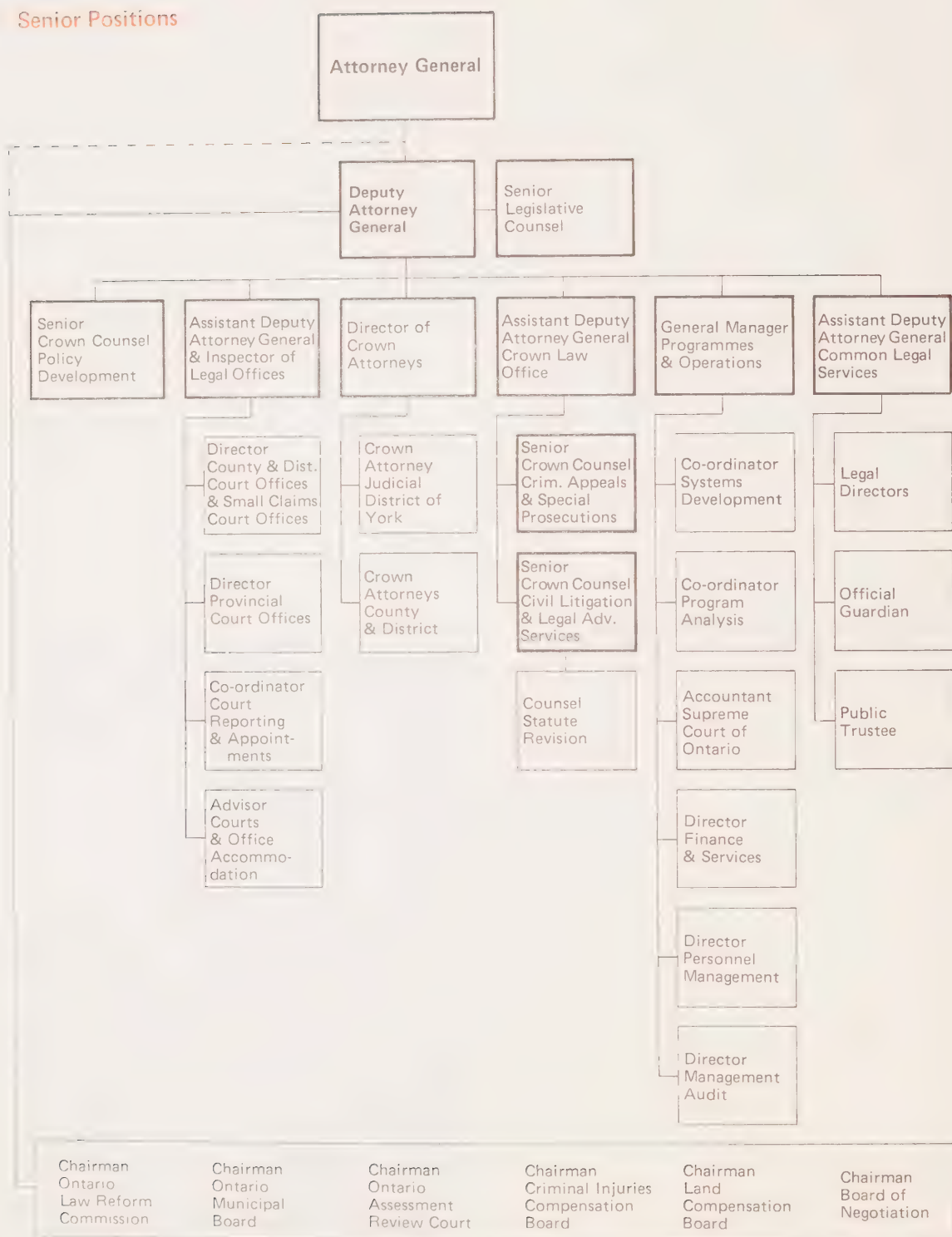


F.W. Callaghan, Q.C.
Deputy Attorney General



The Ministry of the Attorney General

Senior Positions



Office of the Legislative Counsel

W.C. Alcombrack, Q.C.,
Senior Legislative Counsel

Function

The duties and responsibilities of the office include:

Advising and assisting ministers and agencies of the government and Members of the Assembly on all matters of a legislative nature;

Drafting statutes and regulations;

Printing the annual volume of statutes;

Filing and publishing the regulations.

Updating Statutes and Regulations on Film

The project of updating regulations on film is being continued on a regular basis and copy is made available for the use of the Queen's Printer.

The project involving the updating of the statutes on a selective basis is being continued. This project is scheduled to ensure that they will be up to date for the purposes of the next revision, following which it is expected that all the statutes will be kept up to date on a regular basis.

These updating projects have the advantage of spreading the work and cost of future revisions over a number of years and enables this office to provide up to date copy continuously for the purpose of publishing office consolidations.

Number of Bills Drafted, Introduced and Passed

	1972	1973	1974	1975
Government Bills —				
Drafted	241	230	225	191
Introduced	179	185	145	115
Passed	173	177	137	110
Private Bills —				
Introduced	34	40	31	32
Passed	31	38	31	31
Private Members Bills —				
Drafted	95	94	72	79
Introduced	85	93	58	83
Passed	0	0	0	0
Total	132			
number of pages	1734			
in Statute Book	1866	1750	1650	1100

Number of Regulations Drafted and Filed

	1972	1973	1974	1975
Drafted	732	984	1152	1216
Filed	600	828	1001	1049

Published pages in Gazette	1340	1941	1767	2457
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1972 Session	Commenced	Feb. 29th, 1972
	Prorogued	Dec. 15th, 1972
1973 Session	Commenced	Mar. 20th, 1973
	Prorogued	Mar. 5th, 1974
1974 Session	Commenced	Mar. 5th, 1974
	Prorogued	Feb. 14th, 1975
1975 Session	Commenced	Mar. 11th, 1975
	Dissolved	Aug. 11th, 1975
1975 2nd Session	Commenced	Oct. 28th, 1975
	Prorogued	Dec. 18th, 1975

The Ministry of the Attorney General

Policy Development Division

Archie G. Campbell,
Senior Crown Counsel

The Division

At present the Division, which consists of Senior Crown Counsel and four lawyers reports to and is under the direct supervision of the Deputy Attorney General.

Present Duties

Briefly stated, the present duties of this Division include:

1. Research into and analysis of all aspects of the administration of justice in Ontario;
2. Continual review of the approximately 130 statutes administered by the Ministry (see Appendix), initiating proposals for reform and analyzing suggestions for reform from the general public, other ministries and members of the Legislature;
3. Developing the legislative programme of the Ministry commencing with discussion of suggested legislation with senior staff within the Ministry, proceeding to the preparation of Ministry policy submissions outlining the problem and setting out and evaluating the range of government options for discussion and decision-making by the Justice Committee of Cabinet and by Cabinet, and concluding with the creation, in conjunction with Legislative Counsel, of draft Bills reflecting Cabinet decisions;
4. Advising the Attorney General and Deputy Attorney General during the legislative progress of a Bill, which generally involves attendance at the Legislative Assembly with the Attorney General to be available to advise him about the Bill and assist him in answering detailed technical questions which may arise during debate.

The Division is also responsible for the Ministry library which provides service to the Crown Law Office and approximately fifty field offices.

Relationship with Other Organizational Units

To discharge its responsibilities the Division must have close relationships with a number of organizational units both within the Ministry and independ-

ent of it. There is constant liaison and co-operation with the Crown Law Office. Through these efforts some projects are jointly conducted and unnecessary duplication is avoided. The Policy Development Division maintains a co-operative relationship with the Ontario Law Reform Commission and while the independence of the Commission is at all times recognized and respected there is a mutual exchange of research material and ideas.

There is constant demand for interaction with other ministries and Policy Fields, the federal Department of Justice, and with public interest groups. This involvement enables the Division to keep abreast of many activities and proposals which may affect the administration of justice in the province.

Examples of Activity

Legislative

Legislation which has involved the preparation of policy submissions by the Division includes:

1. The Family Law Reform Act, 1975;
2. The Landlord and Tenant Amendment Act, 1975;
3. The Blind Persons' Rights Act, 1976;
4. The Succession Law Reform Act, 1976 (First reading only);
5. The Judicature Amendment Act, 1976;
6. The Evidence Amendment Act, 1976;
7. The Public Authorities Protection Amendment Act, 1976

Summary Convictions Act Review

The Summary Convictions Act is being reviewed, with a view to the developing of summary conviction procedure. This work proceeds concurrently with an exploration of the ways that various civil sanctions can be used to eliminate gaol sentences based on inability to pay a fine.

Family Law Review

The Division continues to devote most of its resources to Family Law Reform. The Family Law Reform Act, 1975, laid the legislative foundation for the reform.

The Division's Major project has been a comprehensive package of reform proposals in the areas of

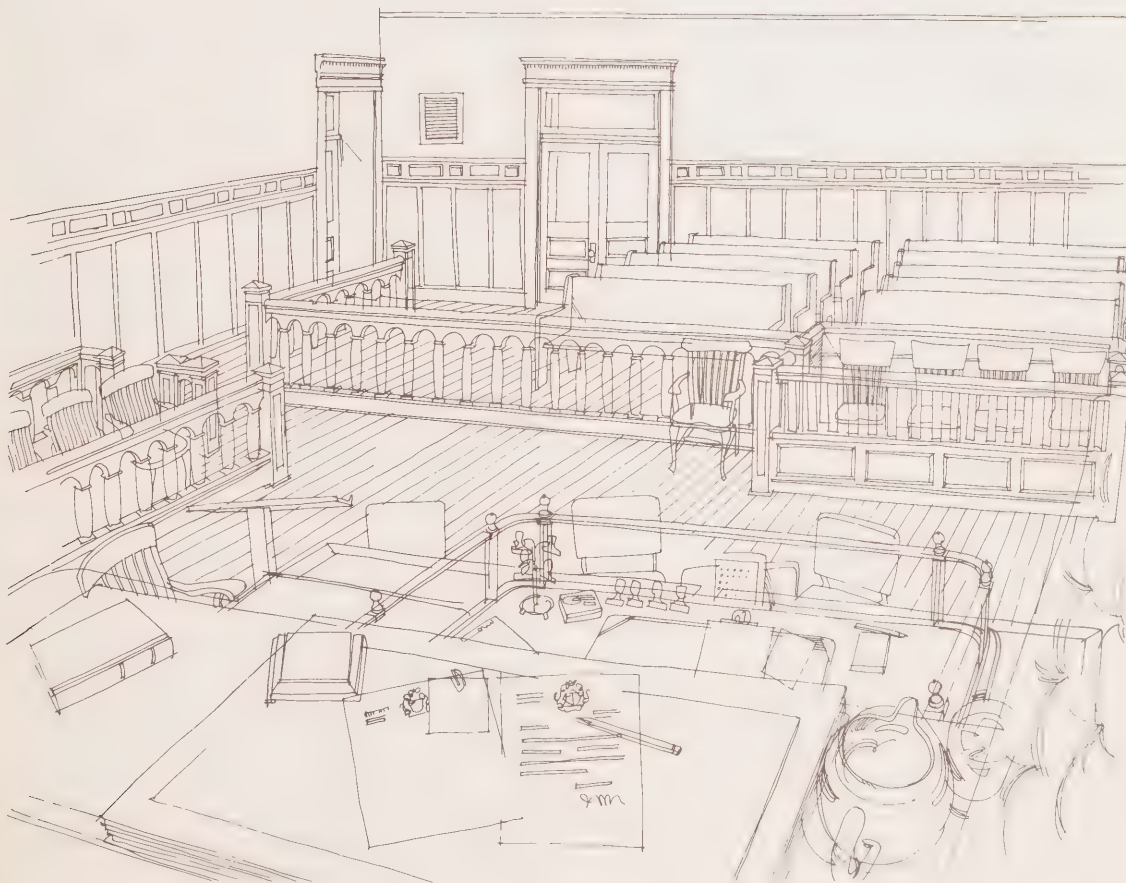
family property and support. Work has begun to provide the foundation for a review, analysis, and reform of the law relating to children.

Landlord and Tenant Matters

The Division was deeply involved in the development of the security of tenure amendments to the Landlord and Tenant Act and provides advice and liaison within the government on Landlord and Tenant and rent review matters.

Uniform Law Conference of Canada

The Division has undertaken a number of projects on behalf of the Ontario Commissioners to the Uniform Law Conference of Canada. A report was prepared this year on Powers of Attorney. This report, which is based on the work of three provincial law reform commissions, is intended to provide the basis for a draft uniform statute.



The Ministry of the Attorney General

Inspector of Legal Offices

Blenus Wright,
Assistant Deputy Attorney General

Responsibilities

The Assistant Deputy Attorney General and Inspector of Legal Offices is responsible for:

1. regulating the appointments of commissioners for taking affidavits, notaries public and justices of the peace;
2. provision of court reporting for all courts and supervision of court reporters and special examiners;
3. ensuring the provision of adequate administrative services to all courts and Observation and Detention Homes, including direction to sheriffs and court registrars, Criminal and Family Court administrators, Small Claims Court clerks and bailiffs;
4. liaison with the Ministry of Government Services and the responsibility for court accommodation;
5. development of a management information system;
6. maintaining liaison between the Ministry of the Attorney General and the judiciary, and the processing of judicial appointments to the Provincial Courts;
7. providing direction to and supervision of the Central West Development Project;
8. overseeing the Ministry's interest in the Native Courtworker Programme.

County and District Court Offices Small Claims Court Offices

Ron McFarland,
Director

County and District Court Offices

The Director provides administrative direction for County and District Court offices. In liaison with the Regional Co-ordinators through the Inspector of Legal Offices, he develops and implements Ministry policies relating to procedures and training programmes.

Appointments have been made upon the retirement of Sheriffs and Court Registrars during the past year:

Stuart Eggleston replaced James McBain in St. Thomas;

Bert Fraser replaced Charles Kennedy in Sarnia;

Robert Kohler replaced E.F. Conover in Peel;

John Bradley replaced Connie Thompson in Fort Frances;

and E.F. Conover was appointed Supreme Court Registrar in Toronto upon the resignation of Harold Poultney.

Regional Co-ordinators

The Regional Co-ordinators established good communication with all offices in their areas. Practices and procedures have been reviewed and, at several meetings with the Inspector of Legal Offices, standard procedures have been developed to assist the offices in processing an ever-increasing volume of litigation. Other changes are being assessed to ensure that persons using the Court system are adequately served.

Four Sheriffs' and Court Registrars' Newsletters have been published, to advise of changes in legislation, to suggest standard procedures for various processes and to provide general information to the officials.

Five Regional Seminars have been held to provide an opportunity for officials and deputies to broaden their skills and keep them abreast of amendments to the various statutes and rules.

Regional Co-ordinators are formulating sessions relating to taxation of costs as part of a continuing educational programme.

Small Claims Court Offices

The Director is responsible for the planning and preparation of recommendations to improve the operation of the Court offices. The Director is also charged with investigating complaints regarding day-to-day administration of the Court offices and providing administrative direction as required.

Small Claims Courts New Initiatives

During the past year a briefing paper was prepared on administrative and procedural matters and discussed general issues such as monetary jurisdiction, formal adjudication and the role of the Referee.

Based on this paper recommendations will be made for amendments to the Small Claims Courts Act. Forms and documents now used have been reviewed and standard forms are being designed. Regional Seminars are planned to provide Court officials with training in specific functions unique to Small Claims Courts, and to ensure standardization of practice and procedure throughout the province. A comprehensive plan is being prepared to establish the number of Courts necessary to adequately serve the needs of the public. An Information Booklet to inform the public of the functions of the Courts is being prepared.

Six Court offices have been closed reducing the number of Courts from 133 to 127.

A number of changes in personnel during the year should be noted:

Clerks of the Court

J.I. Jones	— St. Thomas
Mrs. Mary Anne Kelly	— Windsor
Mrs. E.E. Dexter	— Hamilton
J. Hughes	— Port Hope
Mrs. M. Moore	— North Bay
Mrs. T. Reed	— Atikokan
J.J. Ellis	— Walkerton
L. Belyea	— Kitchener
Mrs. Marian R.H. Sweeney	— Iroquois
G. Kallunki	— Haileybury
A.R. Merritt	— Ottawa

Bailiffs of the Court

N. Doff	— Cambridge
R. Culbertson	— Richmond Hill
T.H. Jarvis	— St. Catharines

Provincial Court Offices

Alex MacKay,
Director

The staffs of the Provincial Court offices continue to provide administrative support to the judiciary in the Criminal and Family Divisions and to serve the public, lawyers and enforcement agencies who use those courts. There are 113 main offices as well as 40 satellite locations. Many of the offices have been improved with renovations, decorating and additional space provided but many are still operating in inadequate facilities.

Criminal Division

Charges being received by the Criminal Courts continue to increase. The rate of disposition was 5.5% higher than the previous year, representing an increase of 148,000 prosecutions, bringing the total annually to 2.8 million. In some areas of prosecutions there were reductions. Highway Traffic Act charges were 3.4% lower than the previous year, and Federal cases 2.1%. However, these reductions were overshadowed by the large increase in cases involving municipal by-laws — 17.5% — and Criminal Code dispositions, which increased by 15.8%. The tremendous increase in by-law cases was experienced mainly in the five largest cities where facilities and staff are already under great pressure because of staff constraints. The Provincial Courts are now handling over one million by-law prosecutions. This problem is under consideration by Ministry officials and it is hoped new methods can be developed to process minor infractions.

During the year the Inspector of Legal Offices adopted office standards for the Criminal Division offices which were developed by the Courts Administration Project in the Central West Region. These standards were implemented in all Criminal Division offices during the last quarter of the year. It is hoped that the uniform standards will give greater flexibility of staff and eliminate unnecessary clerical functions. The standards have been well received by the court administrators and they will be given an opportunity to improve upon them from their experience. Ministry officials have been investigating the use of electronic computers and other equipment for large offices and it is anticipated some of the heavy volume areas may be assisted by these systems.

Family Division

The Family Court offices continue to have a fairly consistent caseload. Many administrators in this Division are having difficulty in completing their workload and considerable overtime has been necessary. Although the caseload is relatively a stable one, demands for services from the staff have greatly increased. The administrators and their staffs are being called upon to do more and more conciliation, social and counselling duties and consequently less time is available for administrative tasks. There is no doubt that these people are experiencing real pressure to accomplish their work. Additional staff has not been available and,

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with the present constraints, in order to continue to provide the past high levels of service, it will be necessary to search for alternate and, if possible, better methods of providing administrative support to the courts. There are no uniform office standards in the Family Division offices and the functional areas differ from jurisdiction to jurisdiction. Consequently staff resources, allocated in the past primarily on caseload, cannot meet all the objectives set in a particular jurisdiction. Every effort should be made to provide uniform service to the public and to obtain maximum use of staff resources by having similar office procedures and systems throughout the division.

Management Training

The Ministry is aware of the fact that the administrators of the court offices — supervising staffs totalling 1,600 people and who control the documentation and financial requirements for nearly three million prosecutions and the accounting for over fifty million dollars — should have training in modern management techniques. Some have taken advantage of the management training courses provided by the Civil Service Commission and others have attended Community Colleges for the same purpose. The Ministry has requested the training staff to develop a management training program to begin next year. It will encompass all administrators of court offices, and may extend eventually to other employees.

Detention Homes

The Ministry again increased the funding for juvenile detention and group home facilities. During the year a new detention home was opened in London.

Several judges have requested the Ministry to provide group homes which would provide a safe place for children not requiring a locked setting, and negotiations have been held to try and provide this service. As in the past, the Ministry hopes to be able to add to these facilities each year as funds become available. Many judges in the rural areas have received authority from the Ministry to use private homes as foster homes for children awaiting disposition in the Juvenile Courts.

Detention home staffs have been maintained at five children to each regular child care worker.

This ratio is considered an acceptable level and is indeed better than five to one when casual help is taken into consideration. There are five locked facilities at Hamilton, London, Ottawa, Toronto and Amherstburg which provide 153 beds and have an occupancy level of 54.5%. A total of 3,195 juveniles passed through the detention system and the average length of stay per child was 6.6 days. The entire staff of these institutions — supervisors, child care workers, support staff of teachers and social workers as well as the food services' personnel — continue to provide a dedicated service to these children, often under very difficult circumstances.

Provincial Court (Criminal Division)

Chief Judge F.C. Hayes

Court Sittings

Increased activity in the Provincial Court (Criminal Division) was attributable to both an increased caseload and a change in the nature of the caseload.

Increased development in and about existing municipal boundaries in some areas of the province, has been encouraged by the provision of additional municipal and transportation facilities. This has brought about a shift in population which has a very direct bearing on the increased caseload.

In order to cope with the increasing and changing nature of the caseload and in order to shorten the period from the date of offence to the final disposition of the matter, it was necessary to maximize the use of available judicial personnel, facilities, and time. Some of the procedures utilized to this end are as follows:

1. Continual assessment of the caseload by Senior Judges and the office of the Chief Judge followed by relevant revisions to court sittings and Judges' assignments and the movement of personnel to establish additional sittings where required for the trial or preliminary hearing of cases which could not readily be accommodated within the ordinary sittings of the court.
2. Institution of specialized rather than general court lists.

3. Review by the Chief Judge's office, with the co-operation of the Senior Judges, of court sittings in heavy caseload areas and re-allocation of judicial resources to make more sitting days available for relief work, lengthy trials or preliminary hearings.

4. Increased use of Justices of the Peace in all areas for the trial of minor liquor and traffic offences and for the adjournment and remand of some criminal matters. In many areas, court sittings commence at nine o'clock, with a Justice of the Peace or a Provincial Judge taking a court for the purpose of remands and setting of trial dates so that the public may be dealt with promptly and counsel may be released for other commitments.

5. A recommendation to the Ministry for an increase in the number of judicial personnel based on locating the additional personnel in central locations so as to provide assistance to adjoining areas.

The Chief Judge's office is developing a programme to obtain some uniformity in the time between the laying of the Information and the return date for the accused to appear. Uniform forms of direction are being instituted and will be forwarded to law enforcement agencies indicating the periods within which the process of the courts must be made returnable. It is hoped this way to dispense with some of the delay which now presents a problem in the case initially appearing before the court.

The growing caseload and the shortage of Judges and competent Justices of the Peace in some areas has, despite improvements in scheduling procedures and the use of Justices of the Peace, caused difficulty in providing adequate sittings of the courts when Judges are absent because of illness, vacation, or on special assignments for the trial or preliminary hearing of lengthy cases.

A substantial number of prosecutions under miscellaneous provincial and federal statutes, such as those relating to construction safety, the environment, combines investigation and income tax, continue to occupy many days of court time and to require many hours of judicial time for the consideration of submissions, research, and writing of judgments. In addition, there has been a considerable number of special criminal prosecutions by counsel from the Ministry of the Attorney General which have necessitated special assignments of

Judges and lengthy trials and/or preliminary hearings.

The statistical analysis representing the increased caseload is only a partial assessment of the problem. There has been a very discernible change in the nature of the caseload in that there are many lengthy criminal prosecutions, be they trials or preliminary hearings, and this has been reflected in the special assignment of Judges to various areas of the province to deal with matters which could not be accommodated in the ordinary court list.

In Metropolitan Toronto, the number of courtroom days allocated to special criminal prosecutions (that is, cases occupying one day or more) increased to 683 in the fiscal year 1975-76, an increase of 105%. Federal prosecutions for special matters accounted for 167 courtroom days in 1975-76, an increase of 42.73%. Special federal prosecutions in Metropolitan Toronto in 1975-76 occupied 24.45% of the courtroom days allocated for special matters. The movement of Judges from Metropolitan Toronto to other areas for special relief decreased slightly from 189 Judge days in 1974-75 to 185 days in 1975-76.

Existing physical facilities and staff in Metropolitan Toronto cannot adequately cope with the existing caseload, but this matter is being continually reviewed in an effort to find solutions that are consistent with the available facilities, staff and the monetary restraints.

Since the implementation of the new bail provisions of the Criminal Code, Justices of the Peace have been assigned to conduct bail hearings in many areas in order to avoid the possibility of a Provincial Judge being disqualified from hearing the trial of the matter.

An increasing demand for the court to attend in remote communities in Northwestern and Northeastern Ontario has been met in most instances by scheduling special sittings. In one or two areas wheather conditions and the availability of facilities in which to hold court caused some problem.

Visits have been made to many remote communities in Northwestern and Northeastern Ontario either by the Chief Judge or by another Provincial Judge, usually in the company of the Crown Attorney, Duty Counsel, a representative of the Ontario Provincial Police, and in some cases, an Indian Court Worker. Particular court dates are being set

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in fort Albany and Attawapiskat and more frequent trips are being scheduled to various communities in Northwestern Ontario to meet their growing needs.

In the Thunder Bay area, a sitting Justice of the Peace has been attending in such locations as Geraldton, Nipigon, and Manitouwadge and some other communities for the trial of provincial statutory offences, in order to provide an earlier disposition of charges and to make more time available for criminal trials.

The Ontario Provincial Police are now policing approximately 22 reserves in Northwestern Ontario and an increasing number of reserves in Northeastern Ontario. This level of law enforcement has led to an increased number of charges and we have been unable to respond adequately to the need for additional sittings in various areas of Northwestern Ontario. At present, some of the court locations have been re-assigned to other Judges but this will not adequately serve the needs of the area. There has been a substantial increase in mine development in Northwestern Ontario, resulting in increased population and a consequent increase in the demand for court services.

North York Traffic Tribunal

The North York Traffic Tribunal, which was outlined in the previous Annual Report, has been operated with a continuing high level of acceptance by members of the public. The informal nature of the hearings, the extended hours of operation, and the operation of the Driver Improvement Centre have all contributed to this continued public acceptance.

One of the original purposes of the tribunal concept was to reduce the ordinary adversary process which is present in the prosecution of criminal charges. This was accomplished by the withdrawal of the prosecutor from the trial of less serious traffic charges.

The tribunal concept will be extended to include cases involving accidents and/or personal injury where a licence suspension is not a possible part of the penalty. It is hoped that by this extension of the procedures at the tribunal, the adversary process ordinarily present in a criminal court will be removed from the trial of these cases and there will be a more informal approach to the hearing of the pleas of guilty with an explanation and the trials of these offences.

Effect of the Ontario Legal Aid Plan

It is clear that utilization of the Ontario Legal Aid Plan by accused persons is increasing. While the Plan greatly aids accused persons, it has increased the potential for delay in the administration of justice.

Accused persons do not always make prompt application for assistance, even though the courts generally allow a three-week adjournment for this purpose. Information which the Plan requires before issuing a certificate is not always speedily provided, thus necessitating a further adjournment to permit completion of the application. Also, where persons are jointly charged, it is not uncommon for one or more of them to fail to retain counsel, necessitating further delays before a trial date can be set.

In some areas, including Metropolitan Toronto, part of the operation of the Plan has been relocated in the Provincial Court Building. This improves the Plan's early contact with accused persons, thereby facilitating an early decision by the Legal Aid Office as to whether or not an accused will be granted a certificate under the Plan.

Court Visitations

During the past year, the Chief Judge visited a majority of the areas of the province and met with Provincial Judges and their staff; met with the nine Senior Judges, discussed problems in their particular areas, and distributed papers on various legal topics to be used for their Area Senior Judges' meetings.

Area Senior Judges held regional meetings to discuss legal matters and to consider scheduling procedures, uniformity of sentencing, etc., with the Judges in the area. The Chief Judge attended these meetings and also discussed the substantial effect on court scheduling procedures when counsel fail to attend in the Provincial Court (Criminal Division) because of their attendance at sittings of the County or Supreme Courts.

The Chief Judge discussed with the Senior Judges and a number of individual Judges the desirability of meeting with County and District Court Judges in their area in an effort to establish some system of co-operation between the courts to avoid trial dates being set involving the same counsel in two different courts for the same period. Co-operation in this area has been increasing.

View from the south-west corner of the new Court House in Barrie. Expected completion date — November, 1976



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Judicial Education

The office of the Chief Judge reviews judgments of the Court of Appeal and the law reports and circulates matters of interest to all Provincial Judges in the Criminal Division. The Law Clerk assigned to the staff of this office assists in preparing appropriate annotations for recently reported judgments and assists in carrying out research in areas of criminal law relevant to the Provincial Court (Criminal Division), including rendering assistance to Judges in preparing judgments.

All Provincial Judges (Criminal Division) have now had the opportunity of attending the Judges University Education Programme, which permits a Judge, once every three years, to live for one week in a university setting, during which time papers are presented by law professors, judges, senior crown counsel, and defence counsel, followed by discussion periods. In 1975, a committee of the Provincial Judges Association (Criminal Division) and the Chief Judge's office prepared a videotape dealing with joint trials. The videotape was supported by research material which was distributed to the Judges in Ontario and has been

requested by Provincial Judges of other provinces.

The Provincial Judges Association (Criminal Division) carries on an active education programme financially supported by the Ministry. It is composed of regional sentencing seminars and central education seminars, with papers prepared by Judges and other speakers for discussion and subsequent distribution to the Judges.

To assist Judges in the sentencing process, the Provincial Judges Association and this office, with the co-operation of the Chief Justice of Ontario and the members of the Court of Appeal, established a programme in which each Provincial Court Judge in the Criminal Division spends three days in Toronto observing the argument of criminal appeals and discussing sentencing problems with members of the Court. This extremely successful programme is funded by the Ministry and represents an entirely new approach toward assisting trial Judges in dealing with the day-to-day problems of sentencing in the Criminal Division. As a sequel to this programme, the Honourable Mr. Justice Martin presented at the University Education Programme a paper entitled "The Offender as a Person."

Judicial Appointments

	1972	1973	1974	1975	as of Mar. 31, 1976
Provincial Judges in Ontario					
Number of Full-time Judges as of December 31	107	108	118	117	117
Number of Judges Retired or Deceased or on L.T.I.P.	7	7	5	6	7
Number of Judges Appointed	7	7	15	5	7
Number of Part-time Judges	2	2	2	2	2
Number of Judges on Extension	4	5	5	6	6

As of January 1976, fourteen (14) of the above Judges were also presiding in the Family Division.

Provincial Judges in Metropolitan Toronto

Number of Full-time Judges, including Chief Judge, as of December 31	22	23	28	29	28
Number of Judges Retired, Deceased or Resigned	2	0	0	0	1
Number of Judges Appointed	1	1	5	1	1
Number of Judges on Extension	2	2	2	1	2

The above shows only Metropolitan Toronto. To calculate figures for the Judicial District of York, it will be necessary to add one full-time Judge — Judge R.G. Pearse, and to shown one Resignation — Judge C.W. Morrison.

Justices of the Peace Education Programme

The Justices of the Peace Continuing Education Programme completed its third year of operation March 31, 1976. As part of this programme, each active Justice of the Peace received papers on various topics; Justices of the Peace Handbook containing selected statutes; selected samples of forms relating to the criminal process; copy of the Criminal Code.

The Justices of the Peace Education Programme Committee also produced videotapes relating to various papers and presented them at three-day sessions in ten locations across the province. Attendance at these meetings has been excellent, and an estimated 600 Justices of the Peace received the benefit of the training programme.

Court Accommodation

Mr. Blenus Wright, Assistant Deputy Attorney General, has established an Accommodation Committee within the Ministry, and the Chief Judge's office has had the opportunity of providing details with respect to the projected requirements for six Provincial Court (Criminal Division) facilities.

Also, this office has prepared a draft of appropriate requirements for a prototype of a Provincial Court (Criminal Division) multi-courtroom building. These have been incorporated in a brief which has been submitted by Mr. Wright to the Ministry of Government Services as being the suggested requirements for courthouse construction.

A brief was also prepared setting out a proposal for possible rental accommodation for criminal courtrooms in the suburbs of Metropolitan Toronto.

Statistics

The graphical analysis by the Management Information System of the Ministry indicates that for the area outside the Judicial District of York, the number of new charges in the system under all statutes at the end of the first quarter of 1973 was approximately 340,000 charges, rising to approximately 360,000 charges at the end of the second quarter of 1973.

In 1974, the figures rose to a high of 410,000 at the end of the second quarter; in 1975, after a decrease during the latter part of 1974, the number

of charges in the system rose to 410,000 in the middle of 1975, with the number of charges received during the last six months of 1975 decreasing to approximately 350,000. This number increased during the first quarter of 1976 to approximately 360,000.

In the Judicial District of York, there was a period of time for which the figures were not available in the form necessary for Management Information statistics; but from the end of the second quarter in 1974, there was a continuing general rise from 340,000 charges to a high of 540,000 charges at the end of the second quarter of 1975, with a general levelling off at approximately 535,000 charges at the end of the first quarter of 1976, thereby indicating a substantial increase over this period.

In Metropolitan Toronto, notwithstanding the problems with available facilities, there were 85,288 Criminal Code dispositions in 1975-76 compared with 73,884 in 1974-75, an increase of 15.43%.

In Metropolitan Toronto in 1975-76, there were 472,511 Summary Conviction Tickets issued compared with 420,225 issued in 1974-75, and notwithstanding this increase of 12.44% and with a backlog of 428,218 charges at the end of 1974, the backlog has been reduced to 345,151 as of December 31, 1975, by a reorganization of the sittings of the court and the caseload.

General

Substantial emphasis is and will continue to be placed on implementing programmes of pretrial disclosure in criminal matters. It is hoped by this pretrial disclosure process, which is initially being operated in Ottawa, that the time spent with trials and/or preliminary hearings will be reduced.

If staff and facilities are available, it is hoped to have some pilot projects whereby the majority of uncontested adjournments would take place outside the courtroom before a Justice of the Peace at any time during regular business hours prior to the next date set for the appearance of the accused in the courtroom. If this can be accomplished, it should relieve the courtroom facilities of a substantial number of repetitive procedures, and if accused persons wish to co-operate, they would be able to attend at some time during regular business hours and avoid losing an entire day's work.

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Some of the benefits which should be derived from the above procedures are:

1. More courtroom hours available.
2. Better use of staff and facilities.
3. Reduction in the number of witnesses required to attend to give evidence.

Coupled with the adjournments on consent before a Justice of the Peace would be a system of caseload control whereby counsel for the accused, after meeting with the Crown Attorney, would be able to indicate to the caseload control centre his available dates for trial. If the witnesses are available and the date suggested by counsel is within the guidelines indicated by the Judge, a date would be allocated by the control centre and the accused could then attend as indicated above to have his case adjourned to that date.

The substantial amendments to the Criminal Code in Bill C-71 and in subsequent bills now before the House of Commons have been studied by the Judges at regional education programmes. This legislation makes an important change in bail provisions. Since the onus is on the accused in several situations to show cause why he should not be detained, a considerable increase is expected in the amount of court time and the number of adjournments which will be required prior to the final disposition of bail hearings.

A noticeable improvement has occurred in the number of outstanding minor traffic charges and the disposition date has been improved by methods which the Chief Judge's office has directed with respect to the sittings of the courts.

In Metropolitan Toronto, the Ministry has retained consultants to introduce new programming for the computer caseloading system which, it is hoped, will match the needed court facilities to the number of charges laid by each officer. If this system is implemented in 1976-77, it is hoped that there will be a further general improvement in the disposition date for minor traffic offences.

Provincial Court (Family Division)

Chief Judge H.T.G. Andrews

The Family Courts administer those branches of federal and provincial legislation designed to ameliorate family breakdowns and process matters con-

cerning children who are in conflict with the law. The special nature of their functions makes it necessary for them to provide a range of integrated social and legal services unique in the provincial court structure.

Complement of Judges

At the end of the fiscal year there were forty full-time Family Division Judges. During the year three Judges retired and six new Judges were appointed. In addition, there were fourteen Judges serving both in the Criminal and Family Divisions and ten part-time or per diem Judges, an increase of four over the previous year.

The Ministry has received approval to appoint an additional ten full-time Family Court Judges.

Automatic Enforcement of Maintenance Orders

The majority of maintenance accounts are administered under an 'automatic' enforcement system which provides for continuous monitoring of payment flow by court personnel and, where necessary, counselling and/or court action to collect arrears.

The necessity to husband human resources in the past months has occasioned, in some areas, the lack of judicial and administrative time necessary to operate the program at maximum efficiency; however, steps are being taken to overcome this problem. The continued participation of Parental Support workers from the Ministry of Community and Social Services has proved invaluable in maintaining the social wing of the program.

Despite these difficulties the average amount collected per account is, once again, increased over the past fiscal year.

Judicial Education and Administrative Training

Family Court Judges attended training sessions in Kingston, Ontario during October and November of this year and continuing educational programs were conducted at the Family Court Judges' Association Seminar in April and again at the Annual Meeting in September.

As part of the education program, Judges representing the Family Court attended Family Law Conferences in Seattle, Banff, Quebec, Ottawa, Los Angeles and Toronto. Judges attending these conferences prepared complete reports which were circulated to all Judges.

Administrators of Family Court Offices attended programs in Toronto pertaining to the Juvenile Delinquents' Act, the Deserted Wives' and Children's Maintenance Act and the Child Welfare Act. These programs were developed and staffed by the office of the Chief Judge of the Family Court. Those Administrators who are Justices of the Peace attended sessions conducted by the Chief Judge of the Criminal Division in various locations throughout the province.

Conciliation Project

In July 1975, Drs. Irving and Gandy, professors at the School of Social Work, University of Toronto, completed their report on "An Assessment of the Need for Conciliation Services in the City of Toronto and a Proposal for a Demonstration Project". Funded by the Department of Health and Welfare through the Office of the Chief Judge, this study examined existing private conciliation services to determine the extent to which such services may be available to Family Court clientele, the amount of training necessary for the purpose and assessed the need for such services.

Recommendations arising from the study are currently under examination and action arising therefrom should get underway in the next fiscal year.

The Central West Courts Administration Project

David Thornton,
Co-ordinator

The Attorney General's Advisory Committee — Central West

Two changes were made to the Attorney General's Advisory Committee. With Mr. Justice T.G. Zuber's elevation to the Court of Appeal, Mr. Justice T.C. Callon was named the representative of the Supreme Court. In response to a request from The County Law Associations within the Central West Region, two lawyers were named to the committee to represent the bar, J.R. Barr, Q.C., of St. Catharines and W. Morris, Q.C., of Hamilton.

The Management Team

Membership in the Management Team has remained the same, except for the appointment of A.K. MacKay as Director of Provincial Court Offices.

He has assumed these duties in addition to his duties on the Management Team.

Caseflow Management

Responsibility for caseflow management was one of the most controversial aspects of the Ontario Law Reform Commission Reports on the Administration of Ontario Courts. The Commission recommended a split responsibility, with the judiciary assigning judges and administrative staff setting case lists and schedules.

The Halton caseflow experiment and the extensive discussions held by the Advisory Committee on the duties of a Regional Director of Courts Administration were the focus by which the Advisory Committee reached its conclusions regarding caseflow management. The Advisory Committee recommended to the Attorney General that the responsibility for caseflow management should rest with the judiciary. Accordingly, His Honour Chief Judge F.C. Hayes of the Provincial Court (Criminal Division) assumed the responsibility for making the necessary changes in the Halton caseflow experiment.

Court Reporting

Studies continue into feasibility of implementing the recommendations of the Ontario Law Reform Commission regarding court reporting. The Management Team has been gathering statistical information on the activities of court reporters since January 1976 in order to assess the impact of the recommendations if implemented.

While recognizing the need for skilled court reporters, electronic recording equipment is now being used extensively throughout the Central West Region. Plans are underway for installation of electronic recording equipment in several other courts.

Standardization of Office Operations Provincial Court (Criminal Division)

Standard office procedures were implemented within the region in January 1976. While the reason for standardization was to have the most effective procedures consistently applied throughout the region and to have a solid base for resource planning and utilization, limited variations were permitted in special conditions. Standards are consistently being reviewed and improved.

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Studies are now being made to determine whether the mechanization or computerization of certain aspects of court office procedures in the larger urban court offices would improve service levels and effect further economies.

Standard office procedures developed and implemented in Central West, have now been implemented throughout the province.

Standardization of Office Operations Provincial Court (Family Division)

A manual of standard office procedures was developed for the Provincial Court (Family Division). However, it was felt that this manual was too limited and should also include standards relating to intake counselling and the legal aspect of court office operations. The production of a more comprehensive manual is now being co-ordinated by His Honour Judge J.E. Van Duzer.

Training

In order to develop a more professional approach to courts administration a training program for court administrators is now being developed in conjunction with the Personnel Management Branch of the Ministry and a community college.

Management Information Systems

Good information systems are vital to the effective management of any organization. Consequently, the Management Team has been working extensively with the Management Information Systems Branch of the Ministry in order to develop better information systems. A pilot project of a Criminal Information System is underway within Central West.

Court Reporting and Appointments

Ron Schurman,
Co-ordinator

Court Reporting

The Co-ordinator develops and implements policies for court reporting services in all levels of courts in the province, as well as in certain boards, commissions and tribunals. He maintains a continuing review of the court reporting function to ensure

equitable and uniform practice through the province.

The Co-ordinator also provides direction and support to the offices of the Special Examiners in Toronto, Hamilton, Ottawa and Windsor. A recommendation for a new Tariff covering Special Examinations has been placed before the Rules Committee of the Supreme Court. It is hoped this will provide incentive to Special Examiners to continue in the important role they play within the courts structure.

Methods of Reporting

There are approximately 380 full-time court reporters and 125 hired on a freelance basis. Short-hand and Stenomask reporters continue to supply the backbone of reporting services, although the electronic recording of proceedings is under constant review by the Ministry.

With the completion of the new Barrie Court House, Ontario will have its first totally electronic reporting system. Proceedings will be recorded on a master tape which will serve as the archival record of the courts, while the reporting staff will produce a record for the production of transcript.

Training programs have been started to increase the supply of new reporters, and new standards set to assure a continuing high quality of reporting skills. A new transcript format has been proposed to ensure page uniformity across the province and to permit greater scrutiny of transcript quality.

With the advent of Justice of the Peace Courts, demand on court reporters' time has greatly increased, leading to the installation of electronic recorders operated by monitors.

Appointments

The Co-ordinator assumes responsibility, delegated by the Inspector of Legal Offices, for all Justices of the Peace in the province. This involves receiving and evaluating requests for appointments, maintaining and up-dating records of over 600 Justices of the Peace and monitoring and developing training programmes. He also investigates inquiries and complaints concerning Justices of the Peace.

He is also responsible for the development and administration of policies concerning the appointment of Commissioners for Taking Affidavits, and Notaries Public.

A brief has been prepared regarding the non-judicial use of affidavits, in the hope that the requirement for sworn affidavits in commercial transactions can be greatly reduced or eliminated, allowing for greater protection of the public.

Courts and Office Accommodation Planning

Bill Thomson,
Accommodations Advisor

Accommodation

The Ministry, with the cooperation of the Ministry of Government Services, Program Management, Planning and Research, Realty Services and Property Management Branches has continued providing additional court facilities and upgrading and expanding existing court and office accommodation throughout the province.

Projects Completed

The Juvenile Observation Home in London incorporated a new design which stressed safety and also provided kitchen, play and classroom facilities. Alterations at 145 Queen Street West and Osgoode Hall in Toronto provided two additional Civil Jury courtrooms and increased administrative support areas respectively. The Provincial Court (Family Division) for Halton, previously located in leased accommodation in Georgetown was relocated in Government owned premises in Milton. Office facilities at 18 King Street East, Toronto, were altered to accommodate new programs and additional professional staff.

Projects under Construction

The Barrie Court Building was scheduled for completion in late 1976. Also under construction are:

1. Improvements at the Old City Hall Provincial Court (Criminal Division), which will provide additional offices for judges and a modern ground floor administrative area;
2. Alterations to the Ottawa Provincial Court (Family Division) to provide an additional courtroom and support facilities;
3. Renovations to Hamilton Provincial Court (Criminal Division) to provide two additional Traffic courtrooms and ancillary services;

4. Relocation of the Kingston Provincial Court (Family Division) in more suitable accommodation, to provide space for an additional courtroom.

Projects in the Contract Stage:

1. Kitchener Provincial Court House;
2. Relocation of the Windsor Provincial Court (Family Division) from leased quarters to a Government owned building;
3. Provision of an additional courtroom for the Brampton Provincial Court (Family Division);
4. Relocation of the Brampton Sheriff's office to provide expansion space for the County Court Building;
5. Relocation of the Dryden Provincial Court (Criminal Division) from leased to Government owned space to provide for expansion of facilities.

Projects in the Planning Stage:

1. Consolidated court buildings in Scarborough, North York, Etobicoke, Newmarket, Lindsay, Whitby, North Bay, St. Catharines, Brockville, Toronto, Guelph, Ottawa, Hamilton and Sudbury;
2. Interim consolidation of court facilities in Scarborough, North York, York and Etobicoke to provide better service pending construction of consolidated court buildings;
3. Major renovations for Hamilton County Court, Ottawa Provincial Court (Criminal Division), Whitby County Court, Kenora District Court, Brampton County Court, Simcoe County Court, and Old City Hall Provincial Court (Criminal Division), Toronto.

Management Information System

Dorothy J. Bryson,
Co-ordinator

Criminal

During the past year the Criminal Information System was implemented in all counties of the Central West Region. It is a caseload system in which index cards and court dockets serve as source documents. Data from court offices are submitted daily to the Hamilton Keying Centre and relayed to Toronto. The information is used to update a master file on court activity. Regular reports

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are run on a monthly basis and special reports can be provided on request. The system also permits retrieval of information on an ad hoc basis. Thus it is flexible enough to meet needs for detailed and aggregate information.

Minor Offences

Also in the past year, an information system for cases involving provincial statutes, municipal by-laws, and federal statutes not included in the Criminal Information System was implemented in one county in the Central West Region. Court dockets are the major source of information. The information is transmitted to the Hamilton Keying Centre, checked and passed on to Queen's Park for use in updating files on major offences. It is expected that after the system has been evaluated, it will be put into effect throughout the region.

Drinking/Driving

A system for collecting data on drinking/driving offences was designed late in the past year. The information permits a county-by-county analysis of the number of offences, the dispositions and sentencing patterns.

Statistics

The Statistics Group, responsible for the production of quarterly and annual reports, published its first fiscal year report in the past year. The report provided comparative statistics on court activity for the previous three fiscal years, and demand for it required two reprints. As a result of suggestions from users of the first volume, this year's report is being modified to include information on the flow of cases during the year (i.e. cases added, disposed and pending).

Federal/Provincial Coordination

The Coordinator of the Management Information System is Ontario's delegate to the Federal/Provincial Advisory Committee on Judicial Information Systems and Statistics. Included in the Committee's work in 1975-76 was a recommendation to the Ministers involved that data collection should be the responsibility of local justice authorities, and that dissemination should be done at a provincial level to the federal government. The objective is to reduce duplication of work by everyone involved in collecting and disseminating judicial statistics in Canada.

Construction of a new government building is now underway in Kitchener. A Court House and Registry Office will be located here.



Crown Attorneys System

John Greenwood, Q.C.,
Director

History

Prosecuting authority rested originally with the Attorney General and his officers at the capital of Upper Canada. As the population expanded numerically and geographically it became increasingly difficult to carry out this responsibility from one central office. In 1857 authority was granted for the creation in each county of the province of a prosecution office under the direction of a Crown Attorney appointed by the Governor. He was required to be a resident of the county, and as such was a part of the local administration of justice which included the local sheriff, the local trial and the jury made up of local residents.

Modernization has strengthened the relationship between the Crown Attorney, with his local responsibilities, and the Attorney General, who is responsible for the administration of justice throughout the province. In 1955, the office of Director of Public Prosecutions was created to co-ordinate the activities of the local Crown Attorneys. In 1964, authority was given for the appointment of Crown Attorneys at large, to act as special prosecutors in difficult or specialized cases. The desire for improved communication in the system gave rise in 1966 to the Crown Attorneys Association, a voluntary group of Crown Attorneys and their assistants who meet to discuss common problems, conduct seminars to keep pace with the changes in the law, and promote an interchange of personnel to deal with temporary absences or unusually busy trial schedules.

Composition Today

The Division is composed of approximately 175 lawyers who specialize in the criminal law. Besides the Director and Deputy Director of Crown Attorneys in Toronto, there are 48 Crown Attorneys and their Assistants in offices throughout the province. The largest local office is the Judicial District of York where the Crown Attorney is assisted by a Deputy, a Senior Advisory Assistant, and 46 Assistant Crown Attorneys. The other offices have staffs ranging in number from one to nine lawyers. In addition, there are three Crown Counsel employed on a contract basis for

one year who are assigned from time to time by the Director to local offices requiring temporary assistance. Finally, the Crown Attorneys in the Division supervise 332 part-time assistants who are local lawyers throughout the province commissioned on a daily basis.

Responsibilities

The Crown Attorneys System is responsible for the conduct in Ontario of prosecutions under the Criminal Code and other federal statutes such as the Lord's Day Act and the Juvenile Delinquents Act. From time to time Crown Attorneys also conduct prosecutions under such provincial statutes as the Highway Traffic Act and the Liquor Licence Act. Crown Attorneys and their assistants exercise the Attorney General's discretionary powers with respect to prosecutions. They choose the appropriate charges upon which to proceed, consider the release of prisoners pending trial, and conduct the trial of cases in court.

Crown Attorneys also supervise private prosecutions and intervene if the interests of the community should require it.

Regionalization

This year the Attorney General has proposed the designation of ten existing Crown Attorneys as Regional Crown Attorneys who will be the local representatives of the Director and who will relay to him matters of concern among the Crown Attorneys in their district. In addition to continuing to discharge his duties as Crown Attorney within his own county, the Regional Crown Attorney will confer with other Crown Attorneys within his district and attend regular meetings with the Director in Toronto. He will facilitate the exchange of information among his colleagues and will regularize the now informal relief assistance by deploying the available manpower within his district. It is expected that this proposal when implemented will further promote the uniformity of service and application of high standards within the Crown Attorneys System.

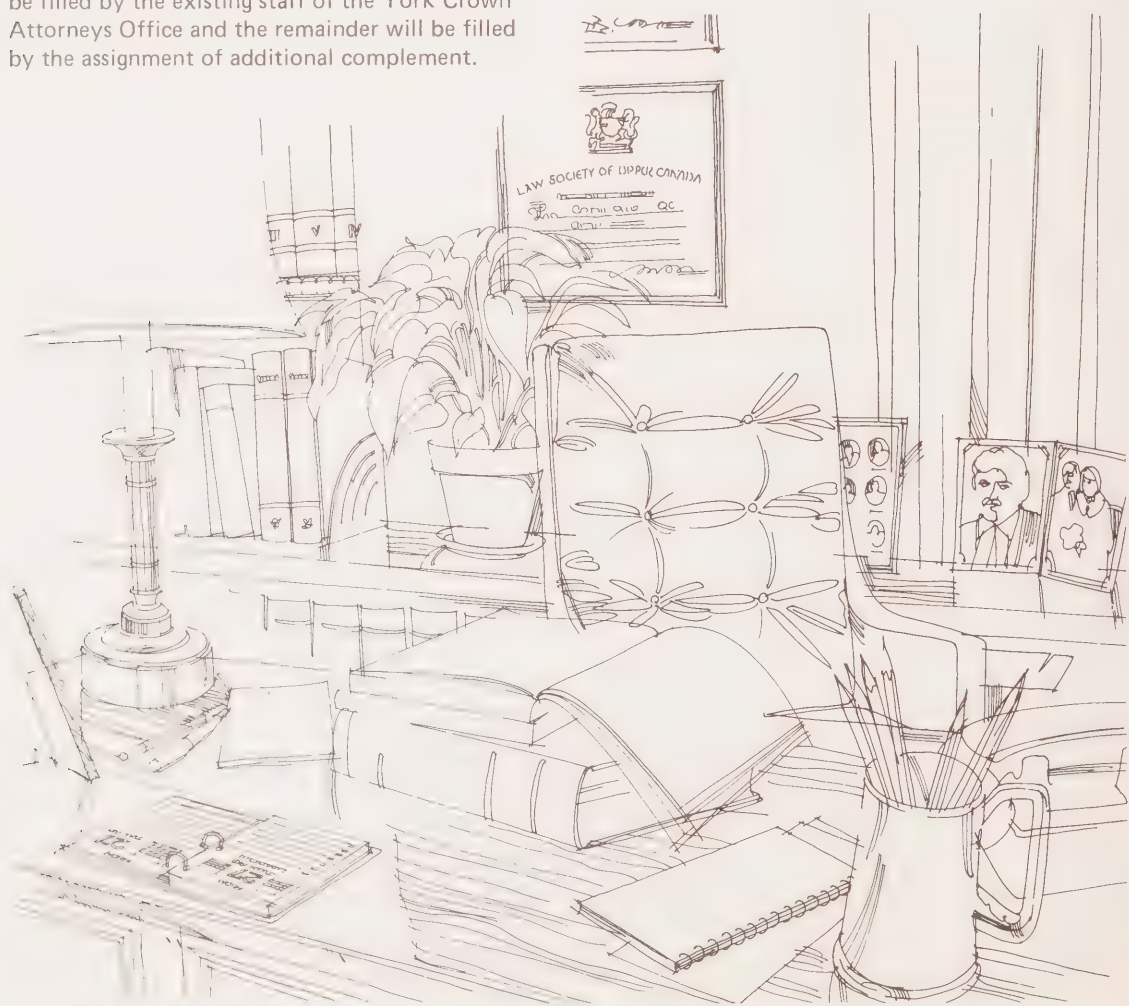
Decentralization of York

Although the population of Metropolitan Toronto has increased by only a third since 1961, there are almost four times the number of cases and almost four times the number of courts operating to deal with them. The increase is accounted for by many factors, such as Legal Aid's effect in prolonging the

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duration of criminal cases, the Bail Reform Act, which until recently saw a number of offences generated by accused persons awaiting trial, and a proliferation of drug and drug-related offences as well as new crimes arising from the abuse of credit and banking facilities.

In order to relieve the resulting congestion of the Toronto courts and improve the quality of service in that city, the Attorney General has proposed decentralizing the courts and the Crown Attorneys office in the Judicial District of York. The proposal would establish three suburban courts in Metropolitan Toronto, each associated with a police division. Each of these courts will comprise nine to ten courtrooms and its own Crown Attorneys Office. Some of the staff for the new offices will be filled by the existing staff of the York Crown Attorneys Office and the remainder will be filled by the assignment of additional complement.



Crown Law Office

Clay M. Powell, Q.C.,
Assistant Deputy Attorney General

Criminal Appeals and Special Prosecutions Branch

R.M. McLeod,
Senior Crown Counsel

Composition

The complement of the Branch was increased during the year from 16 to 17 lawyers — all specialists in the field of criminal law — whose duties are to represent and advise the Crown at both trial and appellate levels in criminal litigation.

Main Function

Appearances in the Supreme Court of Ontario and Supreme Court of Canada on behalf of the Crown on criminal appeals and motions in respect of both summary conviction and indictable offences continued to be one of the principal functions of the Branch. Appeals to the Court of Appeal for Ontario in relation to indictable matters continued to require the largest amount of both time and manpower particularly in view of the ever-increasing numbers and complexity of such appeals and the increased frequency with which the Court sits to determine them.

Appearances on judicial interim release hearings in murder cases, pre-trial judicial interim release review hearings, release pending appeal applications and contested motions and summary conviction appeals in Weekly Court and Chambers involve daily attendances in the Supreme Court of Ontario.

Increasing Volume of Appeals

The volume of criminal appeals in the Ontario Court of Appeal has increased to the extent that the traditional practise of devoting two weeks of each month's sittings to such appeals is virtually a thing of the past. The Court now customarily sits at least three weeks per month and frequently four. It continues to hear an average of 20 to 25 cases each week.

The number of appeals by both accused persons and the Crown increased again during the year. But the volume of outstanding appeals at the end of the fiscal year remained approximately at the level of recent years, a tribute to the members of the Branch.

Other Court Appearances

Court appearances by lawyers in the Branch encompass diverse matters involving various applications of the Criminal Code of Canada.

Weekly Court and Chamber matters include mandamus, prohibition, certiorari and habeas corpus applications, stated cases and Juvenile Delinquent Act appeals. These require one lawyer at least three days a week, and often as many as three lawyers two or three occasions a week.

Applications for leave to appeal and appeals in the Supreme Court of Canada require at least one lawyer every two weeks. When applications are granted, more lengthy subsequent appearances are required for the hearing of the appeal.

Despite recent procedural changes in relation to judicial interim releases and review applications, the sizable increase in such applications often necessitates the daily appearance of two lawyers in different courts to ensure that the case for the Crown is properly advanced and that dangerous offenders are not at liberty prior to their trial.

Special Prosecutions

An increasing portion of the workload in this Branch is in the area of special prosecutions, largely in relation to complicated commercial transactions involving allegations of fraud, corruption and conspiracy. Expanded specialization in the commercial fraud area by the Metropolitan Toronto Police, the Ontario Provincial Police and the R.C.M.P. has created a significant increase in the demand for equally specialized prosecutorial assistance. This is essential not just at the trial or preliminary hearing stage, but in many cases from the very outset of the investigation. Several members of the Branch, having developed expertise in this area, devote an increasing part of their time and effort to these lengthy and demanding prosecutions.

Advice and Assistance

In addition to appellate and trial work, the Branch is available at all times to provide advice and assist-

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ance to other government departments, local Crown Attorneys and others involved in the administration of justice in Ontario. This assistance may involve the preparation of formal opinions, service on interdepartmental committees or simply the provision of immediate access to an informal expert opinion where it is possible. Enquiries and complaints regarding the administration of justice are also reviewed by this Branch.

Civil Litigation and Legal Advisory Services Branch

Morris M. Manning,
Senior Crown Counsel

Composition

The Branch provides an independent legal service for all Ministries of the Government — by the Senior Crown Counsel and a staff of 17 lawyers and para-legal personnel, including the director of accident claims and a number of law clerks and law students.

Servicing Other Ministries

Work done for the Ministries continues to increase and become more varied in form. Both the bar and the bench recognize the change in the nature and quality of the legal services performed by this branch by reason of the courtroom experience of its legal officers.

Branch work involved appearances on behalf of the government in civil litigation in Small Claims Court, in the County, Supreme and Federal Court Trial Divisions, and in appeals and applications before the Divisional Court, Court of Appeal for Ontario, Federal Court of Appeal and Supreme Court of Canada.

Case subjects ranged from simple motor vehicle accident damage actions to complex questions of constitutional law involving the legislative competence of the Provincial Legislature and the Parliament of Canada. As a result of the continual increase in expertise of counsel within the office less legal work than ever before has been referred to outside counsel. A further decrease in the number of cases referred outside is expected.

Constitutional Cases

The number of constitutional law cases undertaken by this Branch has again increased, involving both cases where the Ontario government was a party to the proceedings and those in which Ontario intervened where other Provincial governments were parties. Notable among these was Ontario's intervention in the Supreme Court of Canada's consideration of the *Validity of the Anti-Inflation Act*. Others included: *Tomko and the Nova Scotia Labour Relations Board*; *Continental Grain Company vs Montana Mustard Incorporated*; *McNeil vs the Nova Scotia Board of Censors*; *Canadian Industrial Gas and Oil Limited vs the Government of Saskatchewan and the Attorney General of Saskatchewan and the Attorney General of Canada*; and *Vadeboncoeur vs Landry*. These cases involved the validity of both Provincial and Federal legislation.

In some of the cases judgment has been reserved and in other cases intervention has been filed with the Court but the cases as of this writing have not yet been heard. As well as constitutional cases arising in the Supreme Court of Canada, the Branch has also handled constitutional law cases which have risen at all levels of Court within the Province of Ontario

Judicial Review

Under *The Judicial Review Procedure Act*, the Attorney General is entitled to be heard in person or by counsel in all matters of judicial review.

By statute all applications for judicial review must be served upon this Branch at which time they are examined to determine whether an intervention will be made on behalf of the Attorney General. Interventions usually occur when the interpretation of a Provincial statute is in issue and such interpretation will affect more than one case or have an effect upon future provincial action. Further, in many applications for judicial review the Ministry responsible for a tribunal, the tribunal itself or a provincial official may be a party to such application for judicial review, and in those cases as well as the cases in which the Attorney General intervenes the Branch appears and argues the matters in the Divisional Court. Proposed new Provincial Legislation usually foreshadows a great number of applications for judicial review which in turn increase the case load of the Branch.

Claims For and Against the Crown

The office of the Senior Crown Counsel continues to deal with a large number of claims for and against the Crown. Pursuant to *The Proceedings Against the Crown Act*, a Notice of Claim must be served upon counsel in the Branch before an action is brought against the Crown. This enables counsel to investigate the claim before an action is begun, to determine first what the position of the Crown will be and, second, whether a settlement is possible. These claims include a great number arising from motor vehicle accidents and relating to injuries or damages caused by vehicles of the Crown driven by members of the Ontario Provincial Police, the Ministry of Transportation and Communications and all other Ministries of Government. On the other hand, Crown employees are often injured through the actions of others and claims are made on their behalf.

The Branch handles the full range of claims available in law except those in the area of labour law and complex technical subjects requiring expertise, such as patents or trade marks.

Boards and Tribunals

The Branch provides counsel service to various boards and tribunals. The Game and Fish Hearing Board, for example, received advice at its outset as to how its day to day operations should be carried out. The Ontario Human Rights Commission once again sought the Branch's assistance and counsel have appeared on behalf of the Commission on Boards of Inquiry ordered by the Minister to investigate particular complaints alleging breaches of *The Ontario Human Rights Code*.

Her Majesty's Proctor

Pursuant to *The Matrimonial Causes Act* the position of Her Majesty's Proctor was created to provide an independent officer to assist the Court in Divorce actions and other related matrimonial causes. Counsel within the Branch appear on a regular basis in respect to applications made by a spouse in a divorce action to prevent the issuance of a decree absolute. The increasing number of divorces has caused a parallel increase in the number of such applications.

Advisory Services — Providing Legal Opinions

The Branch provides opinions to all Ministries covering a wide variety of subjects, ranging from

constitutional law opinions to the interpretation of provincial statutes in order to answer a specific enquiry from a Ministry. These opinions may also be prepared with a view to establishing a position for a Ministry in anticipation of litigation or as a result of litigation.

Legislative Advice

The Branch is frequently involved in the preparation of legislation where a change may be necessitated by a judgment of Court. This requires a constant liaison with the Ministries affected in order to ensure that the legislative changes conform to judicial pronouncements as well as to the needs of a Ministry. In addition, in relation to the statutes administered by the Ministry, the responsible legal officer is expected to recommend necessary changes and to work with the Policy Development Division and with the Legislative Counsel's Office, to see that those changes are carried out. In the past year for example, counsel in this Branch along with counsel from the Policy Development Branch were responsible for the development of the security of tenure provision of *The Landlord and Tenant Act*.

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Programs and Administration Division

B.W. McLoughlin, C.A.
General Manager

Function

This section of the Ministry is responsible for directing and co-ordinating the Ministry's general support services including personnel, financial management, auditing and administrative procedures. In 1975-76, continuing emphasis was placed on increasing the use of computers and making more efficient use of available resources in compliance with the Ontario Government's constraint measures.

Systems Development Branch

R.N. Rintoul,
Director

Land Compensation Board

A study was made of the scheduling of hearings of the Land Compensation Board. Recommendations were made which would have the effect of increasing the number of hearings held, with an appropriate change to the staffing structure of the Board. These recommendations were implemented.

Computer Operations, Financial Management Branch

Systems studies were carried out to improve the efficiency of the computer programs being run in this operation, and changes were introduced.

Financial Reporting System

The accounting needs of the Ministry were studied in detail to provide a series of management reports covering each division, branch and function.

The main objective of this financial reporting system was to assist managers in meeting budget, and to monitor expenditures and committing funds so that the chance of over-run was reduced.

This study was carried out by a combined team from the firms of P.S. Ross & Co., Touche Ross & Co., and the Systems Development Branch.

Accountant, Supreme Court of Ontario

A review was carried out of the accounting machine operation in this office and recommendations were made as to replacement equipment.

Program Analysis Branch

J. Solymos,
Co-ordinator

Multi-Year Plan

In 1975-76, as in prior years, one of the main services provided by this Branch was the preparation of the Ministry's multi-year plan; namely, setting out what changes in the year's approved budget and staff complement would be needed over the subsequent three years in order to handle the future growth patterns expected in the operating levels of the Ministry's various programs and activities.

This document, and the funding level decisions which resulted from its review, were the basis for the preparation and assessment of the Ministry's 1976-77 estimates submission.

Reporting Review

Also in 1975-76, the Branch began a lengthy process of reviewing, and where appropriate, refining the Ministry's present information flows and management reporting systems.

The aim in this process is to monitor the adequacy of the approved budget by ensuring that program managers have regularly and frequently through the year, submitted a timely and realistic summary in quantified terms, of how their actual operating level and resource utilization compared with their original expectations, which were reflected in their approved budgets for the year.

Management reporting systems were set up in 1975-76 for programs accounting for about 30% of the Ministry's expenditures — i.e. Contribution to the Legal Aid Plan, Crown Attorneys System, Observation and Detention Homes, Official Guardian. Review and improvement of these and future systems will be continued.

Accountant, Supreme Court of Ontario

E.J. McGann,
Accountant

Assets

Assets under management at the end of fiscal year 1975 totalled \$122 million. The interest rate of 9% per annum on funds belonging to infants was maintained during the year. A rate of 6% continues to be paid on other funds being held until court cases are settled. Both rates are compounded semi-annually. Interest had been paid on a minimum monthly quarterly basis. As at April 1, 1976, interest is paid on a minimum monthly basis.

Investments

The investment portfolio continued to be traded actively. The total value of transactions for the year was \$225 million, a 45% increase over the preceding year. The interest revenue on the portfolio increased from \$6.7 million last year to \$8.5 million for the fiscal year 1975.

The monies paid into court in Suits and Matters in the 1975-76 fiscal year totalled \$46 million, while disbursements during the same period amounted to \$35 million.

Finance & Services Branch

H.A. Gibbs,
Director

The Finance & Services Branch is responsible for providing the following services to the Ministry:

1. Estimates preparation and financial reporting and record keeping regarding expenditures, revenues, budgets, costs and complement.
2. Financial and administrative support services such as payments to suppliers, payrolls, purchasing, records management, mailing, duplicating, etc.

The installation of a mini-computer in the Branch enabled improvements to be implemented in the

Financial Control and Reporting System of the Ministry, and in a number of processing systems.

The efforts of the Branch have been, and will continue to be, especially directed to seeking out and implementing changes in support services which will achieve efficiencies and economies in the administrative operations of the Ministry.

Personnel Management Branch

O.M. Mitchell,
Director

Re-organization

A significant change in the Branch was the combining of the former Recruitment and Position Administration Sections along with Staff Relations to provide a more comprehensive program. The province was divided into geographical regions allowing Personnel Administrators to develop a continuity of service and contact with Managers throughout the Ministry.

The operation of the Branch was affected by a number of innovations including the following.

Constraints

During the year the Provincial Government introduced a program of restraints including a freeze on external recruiting. The necessary restrictions and requirements of the program created a sharp increase in workload of this Branch.

Broadbanding

The first broadbanding project in the Ministry — Crown Law Officers — was implemented.

Agreement was reached with the Civil Service Commission to create a Law Administration Group in the Administrative Module which will include a large number of Ministry positions.

I.P.P.E.B.

The Branch participated in the continuing preparation for Integrated Payroll Personnel Employee Benefits.

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Management Audit Branch

S.E. Neundorf,
Director

Audit

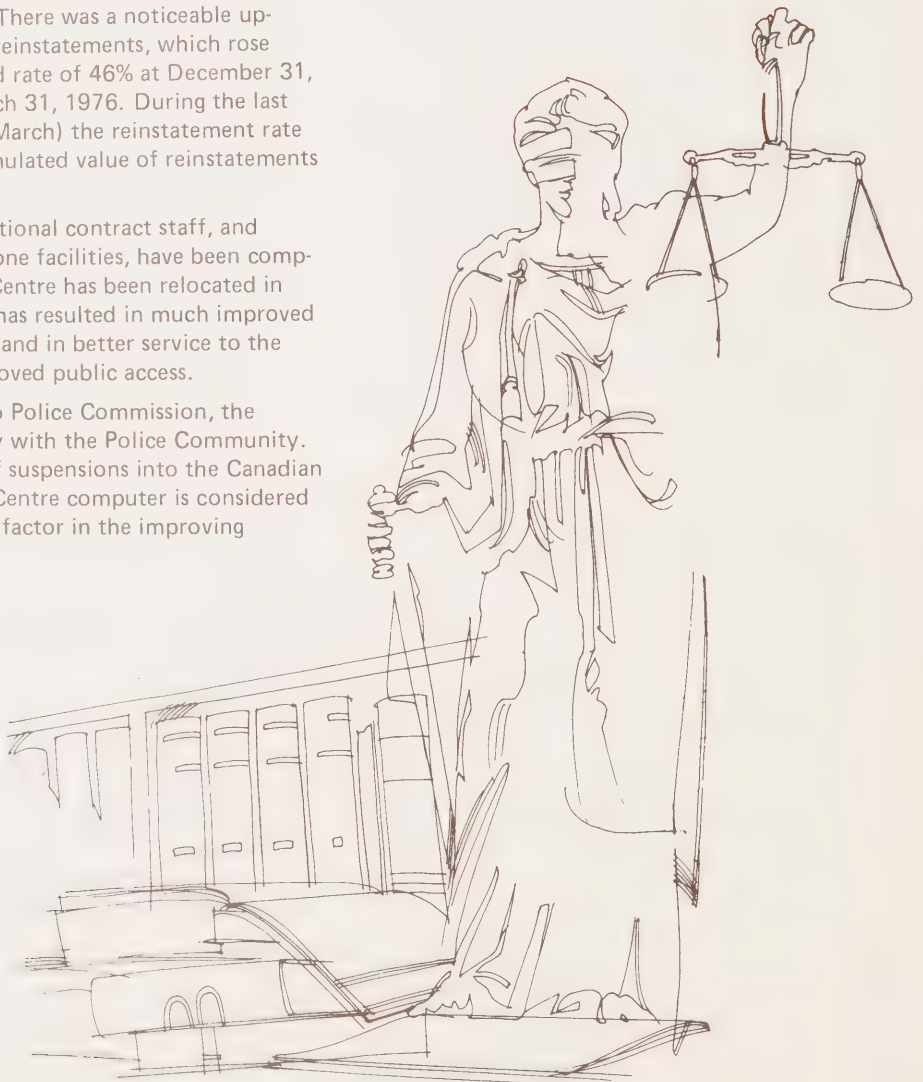
The Branch's responsibility for the audits of Court and Judicial Offices was met during the fiscal year. A total of four Small Claims Courts were either closed or amalgamated with other Courts.

Defaulted Fines/License Suspension System

During the fiscal year ending March 31, 1976, the activity of the System continued at the high rate previously reached. There was a noticeable upswing in the rate of reinstatements, which rose from an accumulated rate of 46% at December 31, 1974 to 65% at March 31, 1976. During the last quarter (January — March) the reinstatement rate was 77%. The accumulated value of reinstatements was \$2,593,837.00.

Recruitment of additional contract staff, and expansion of telephone facilities, have been completed. The Control Centre has been relocated in larger quarters; this has resulted in much improved working conditions, and in better service to the public through improved public access.

Through the Ontario Police Commission, the Centre works closely with the Police Community. The programming of suspensions into the Canadian Police Information Centre computer is considered to be a contributing factor in the improving reinstatement rate.



Common Legal Services

John D. Hilton, Q.C.
Assistant Deputy Attorney General

All Government Lawyers employed by Ministry

Common Legal Services is established as an ongoing program to provide legal services for all Ontario government ministries and to develop a unified approach to such things as pay and grading for legal services provided to independent boards and commissions. Lawyers in the eighteen legal branches of the various ministries are employed by Common Legal Services on behalf of the Attorney General. This procedure encourages independence of legal opinion within the various government departments and facilitates consultation on points of law. Common Legal Services is also responsible for the retention of outside counsel where the services of such are required by the government.

Professional Development

Professional development of its lawyers is a continuing objective of Common Legal Services. Education programs offered by the Canadian Bar Association, the Law Society of Upper Canada and the Advocates Society are regularly used for updating and enlarging the legal knowledge of member lawyers. Movement of lawyers between legal branches is on the rise as is promotion of employees within Common Legal Services, thereby creating more career opportunities for government lawyers.

Association of Civil Lawyers

As a result of an educational conference held in September, the Association of Civil Lawyers working within the government has been formed to consider and deal with the common problems faced by the civil lawyers in the government. It is hoped that this will result in an increased sense of common identity, thus increasing the pride, productivity and quality of the government's lawyers.

Liaison with Boards

In addition to the foregoing, this office has a liaison responsibility between the Ministry and the Municipal Board, the Land Compensation Board,

the Board of Negotiation and the Criminal Injuries Compensation Board.

Chief Inquiry Officer

A substantial amount of time in this office is also used in the discharge of the responsibilities of the chief inquiry officer, pursuant to The Expropriations Act, involving the retainer of and the liaison with inquiry officers throughout the province and a large area of communications with the public in relation to The Expropriations Act generally.

The offices of the Official Guardian and the Public Trustee also report to the Assistant Deputy Attorney General, Common Legal Services. Including these two operations, Common Legal Services has nearly Four hundred employees in professional, secretarial and clerical positions.

Office of the Official Guardian

E.M. Henry, Q.C.,
Official Guardian

Function

The Official Guardian provides legal services for minors; unborn and unascertained persons; mental incompetents and absentees. He is also required by Statute to provide the Court with Reports in divorce and custody proceedings with regard to the care, maintenance, custody and access of the children in the disputes.

General

The work of the office has expanded from a total of 13,643 new cases in 1972 to 16,651 in the calendar year 1975 — an increase of some 22% in five years.

The office has a staff of 61. It also utilizes the services of a number of lawyers who act as its agents throughout the province. It employs Children Aid Societies outside Toronto and freelance social workers in Toronto to assist in investigation and preparation of reports in divorce and custody actions.

The Official Guardian is aware of the consideration of no fault divorces and is participating in a Family Court Conciliation Project recently initiated to pre-

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serve the sanctity of family life from improvident dissolution of marriages to the detriment of families in general and children in particular.

The Official Guardian is a member of a committee, chaired by W.B. Williston, Q.C., which is making a complete revision of the Rules of Practice of the Supreme Court of Ontario.

Increasing Demand

The Official Guardian must keep abreast of trends and developments in family and child law and attempt to meet new responsibilities within his jurisdiction.

The Law Reform Commissions of Canada and Ontario have strongly recommended that the law give more adequate consideration to the rights of minors in matters directly affecting them, other than the protection of their proprietary interest which is the traditional concern of the Courts. Hence, judges are appointing the Official Guardian as guardian ad litem (counsel) to represent children in custody and access proceedings. The Official Guardian is being appointed because of his traditional role in protecting the interest of minors in legal proceedings and his obvious independence from influence by adult parties.

Another matter of major concern is that of the adoption of children of unwed mothers whose consent to the adoption is required and which is often obtained before a guardian ad litem is appointed and the minor mother has had the benefit of independent legal advice. The Official Guardian has agreed, pending a clarification of this problem by statutory amendment, to provide such legal advice to unwed mothers prior to their execution of consents. This is an important and far-reaching development and will tend to curb improper placement of children by often well-intended lawyers and doctors who might inadvertently or otherwise take advantage of unwed mothers to the serious detriment of the infants concerned and without due consideration of the mothers' rights and interests.

Report of Operations

The statistical data for the fiscal year 1975-76 and for the calendar years 1972 to 1975 inclusive is as follows:

Surrogate Court Audits

	1972	629	decrease of	105
	1973	653	increase of	24
	1974	629	decrease of	24
	1975	608	decrease of	21
Fiscal year	1975-76	624		

Matrimonial Causes New Matters

	1972	9,612	increase of	1,366
	1973	10,342	increase of	730
	1974	11,998	increase of	1,656
	1975	12,738	increase of	740
Fiscal year	1975-76	13,059		

Number of Payments into Court

	1972	244	decrease of	121
	1973	218	decrease of	26
	1974	190	decrease of	28
	1975	189	decrease of	1
Fiscal year	1975-76	189		

New Fiats Authorizing Payments Out of Court for Maintenance and Other Purposes

	1972	502	decrease of	297
	1973	370	decrease of	132
	1974	271	decrease of	99
	1975	384	increase of	83
Fiscal year	1975-76	413		

Number of Payments Out of Court pursuant to Existing Fiats

	1972	1,527	decrease of	110
	1973	1,783	decrease of	256
	1974	1,572	decrease of	211
	1975	1,607	increase of	35
Fiscal year	1975-76	1,674		

General Counsel Work in matters arising out of:

The Child Welfare Act; The Dependents' Relief Act; The Devolution of Estates Act; The Dower Act; The Fatal Accidents Act; The Highway Traffic Act; The Infants Act; The Insurance Act; The Mortgages Act; The Partition Act; The Settled Estates Act; The Surrogate Court Act; The Trustee Act; The Variation of Trusts Act and The Wills Act.

	1972	1,129	decrease of	122
	1973	1,029	decrease of	100
	1974	1,141	increase of	112
	1975	1,125	decrease of	16
Fiscal year	1975-76	1,148		

New Miscellaneous Matters

Numerous attendances, telephone inquiries and extensive correspondence, both with solicitors and the general public, pertaining to the solving of problems relating to the personal and financial welfare of infants.

Summary of the Total Number of New Matters and Cases

1972	13,643
1973	14,395
1974	15,801
1975	16,651
Fiscal year 1975-76	17,107

Forecast of Operational Activities

The Office of the Official Guardian does not nor does it attempt to develop new programmes and activities. The office for practical purposes simply renders legal services on behalf of persons under a disability consisting mainly of minors under the age of eighteen years.

The forecast of the programmes and activities for the fiscal year 1976-77 and for each of the three succeeding years are as follows:

Surrogate Court Audits	1976-77	650
	1977-78	650
	1978-79	650
	1979-80	650

Matrimonial Causes New Matters

1976-77	14,500
1977-78	15,500
1978-79	16,500
1979-80	17,500

Number of Payments into Court

1976-77	225
1977-78	225
1978-79	225
1979-80	225

New Fiats Authorizing Payments Out of Court for Maintenance and Other Purposes

1976-77	425
1977-78	450
1978-79	500
1979-80	550

Number of Payments Out of Court pursuant to Existing Fiats

1976-77	1,800
1977-78	1,900
1978-79	2,000
1979-80	2,100

General Counsel Work

1976-77	1,250
1977-78	1,300
1978-79	1,350
1979-80	1,400

The Public Trustee

F.J. Maher, Q.C., Public Trustee

Dollar Responsibility

Funds for which the Public Trustee has responsibility grew to \$144 million in the 1975-76 fiscal year, an increase of 13% over the previous period. These are accounted for by the Trustee's main areas of concern:

The administration of the estates of mentally incompetent persons in provincial psychiatric facilities, nursing and special-care homes;

The administration of the estates of persons who die leaving no next-of-kin or lawful heirs.

General Operations

While there has been no substantial change in operations, there has been an increased volume for relief from forfeiture by corporations and our dealings with Patients' Estates, Crown Estates, Special Trusts including such things as Powers of Attorney, Mental Incompetency matters, Company Trusts and Cemetery Trusts have all enlarged.

The I.O.S. Investment Fund liquidation continues to occupy this office. The application of the Public Trustee for release of I.O.S. Investment Fund shares currently held by the Bank of New York as custodian is still before the courts.

It is hoped the matter will be completed this year. On the other hand, it appears that the winding up of Transglobal Financial Services Limited will still take some time. The matter is complicated by the

The Ministry of the Attorney General

fact that not only this office but also various companies have claims against Transglobal in foreign countries.

Staff Operations

Again there has been no increase in the Public Trustee's staff of 155. A feasibility study begun last year with a view to reorganizing the office's operations for greater efficiency is still underway.

Earnings and Expenses

	as at March 31st, 1976
Fees: Patients' Estates	855,113.
Crown Estates	394,222.
Special Trusts	80,574.
Company Trusts	90,434.
Cemetery Trusts	14,307.
Charities	33,648.
Total Fees	\$ 1,468,298.
Bank Interest	10,350.
Net Earnings from Investment Fund Account	1,660,759.
Total Revenue	\$ 3,139,407.
Debit Balance Written Off	71.
Gross Earnings	\$ 3,139,336.
Operating Expenses	2,352,663.
Total Net Earnings for Year 1975-76	\$ 786,673.

Investment Fund Account

	as at March 31st, 1976
Bonds at Amortized Cost	76,928,364.
Accrued Interest Received	1,548,196.
Cash in Bank	103,440.
Total	\$ 78,580,000.
Interest Earned on Investments	5,463,395.
Interest Earned on Bank Accounts	44,109.
Total	\$ 5,507,504.
Less: Interest Allowed	2,969,860.
Book Loss on Exchange of Securities	876,885.
Net Earnings in Investment Fund	\$ 1,660,759.

Securities Held for Investment Fund Account

	as at March 31st, 1976	Par Value	Book Value	Market Value
Ontario Hydro	51,342,000.	51,010,955.	45,616,220.	
Province of Ontario	25,160,000.	24,917,409.	20,849,475.	
Toronto Dominion Term Deposit	1,000,000.	1,000,000.	1,000,000.	
Total	\$ 77,502,000.	\$ 76,928,364.	\$ 67,465,695.	

Assets under Administration

	as at March 31st, 1976
	\$ 144,036,993.

Court Houses — new & old.

Osgoode Hall, Toronto



Court House, London



Court House, Hamilton



Court House, St. Catharines



Boards and Commissions

Ontario Law Reform Commission

Chairman: H. Allan Leal, Q.C., LL.M., LL.D.

Vice Chairman: Honourable James C. McRuer,
O.C., LL.D., D.C.L.

Members: Honourable Richard A. Bell, P.C., Q.C.
W. Gibson Gray, Q.C.
William R. Poole, Q.C.

Function

The Ontario Law Reform Commission was established in 1964 as an independent Commission to examine and consider any matters relating to

1. reform of the law having regard to statute law, the common law and judicial decisions;
2. the administration of justice;
3. judicial and quasi-judicial procedures under any Act; and
4. any subject referred to it by the Attorney General.

The Commission has made over fifty reports in the last twelve years, covering a broad range of topics. Many have formed the basis for both new legislation and amendments to existing statutes, including The Condominium Act, The Expropriations Act, The Age of Majority and Accountability Act, The Coroners Act, landlord and tenant legislation and family law legislation.

Reports during 1975 - 76

During this period, the Commission has worked on a varied range of topics, and has submitted reports on support obligations, mortmain, charitable uses and religious institutions, landlord and tenant law, and reform of the law of evidence.

The Commission's Report on Family Law, Part VI, Support Obligations contains recommendations to re-establish support law on the basis of need, not fault, and to remove discrimination between husbands and wives; it brings to a close nine years work on a comprehensive programme of family law reform. The Commission also completed its work on the Minister's reference concerning The Mortmain and Charitable Uses Act and The Religious Institutions Act, recommending a partial repeal of the first Act, and new legislation to replace the latter. The Report on Landlord and Tenant Law, the Commission's third and final report on this im-

portant topic, completes a major effort to modernize the law governing residential, commercial, industrial and agricultural tenancies. Finally, the Commission concluded its study on the Law of Evidence by recommending a new draft Evidence Act for Ontario.

Concurrently, the Commission has carried on work on a number of other projects including the Minister's reference on The Sale of Goods Act, and the Commission's initiated projects on the law of trusts, the enforcement of judgment debts, the law of real property, and The Change of Name Act.

The Commission continues to benefit from the exchange of ideas and experiences derived from the close liaison which law reform agencies throughout the world maintain. It has worked closely with the Uniform Law Conference of Canada, and the recently established Law Reform Committee of the Canadian Bar Association, Ontario Branch. The general public continues to follow the Commission's work with lively interest.

Full Report Available

A full report for the fiscal year 1975-76 is available from the Law Reform Commission or the Government of Ontario Bookstore.

Ontario Municipal Board

Chairman: W.H. Palmer

Vice-Chairman (Administration): R.M. McGuire

Vice Chairman: A.H. Arrell, Q.C.
D. Jamieson (retired Aug. 5, 1975)
W. Shub, Q.C.
F.G. Blake
A.L. McCrae

Members: W.T. Shrives
W.H.J. Thompson, Q.C.
B.E. Smith
D.S. Colbourne
S.S. Spiegel
H.H. Lancaster
P.M. Brooks
A.B. Ball
H.E. Stewart
C.G. Ebers, Q.C.
H.W. Kelly, Q.C.
J.A. Wheler

E.A. Seaborn
A.J.L. Chapman, Q.C.
L.P.D. Staples
M. Corbett
W.E. Dyer, Q.C.
C.G. Charron, Q.C.
J. Wadds

Establishment

Under the authority of The Ontario Municipal Board Act.

Primary Jurisdiction

The Ontario Municipal Board Act, The Municipal Act, The Planning Act, The Assessment Act and diverse Ontario Statutes including Special Legislation.

Functions

To effect the growth and economic stability of municipalities in various fields.

1. Municipal Structure

Constitution, alteration of boundaries and dissolution of municipalities.

2. Capital Expenditure

Financial supervisory role and approval of capital undertakings, and the manner of recovery therefor.

3. Planning Administration

Approval of restricted area by-laws, official plans and plans of subdivision, and appeals from Land Division Committees and Committees of Adjustment.

4. Assessment Appeals

5. Miscellaneous Applications

Appeals

1. Divisional Court on matters of law and jurisdiction.

2. Petition to Lieutenant Governor in Council.

3. Application to Board for rehearing.

1975 Calendar Year

Total number of applications 7,945

Total number of hearings 2,941

Board's Annual Report available for greater detail.

Assessment Review Court

Chairman: E.K. Pukacz

Vice-Chairman: R.D. Baxter

Vice Chairman (part-time): S.R.R. McNeil

Jurisdiction

The Assessment Review Court was established under The Assessment Act, 1968-69 and continues under The Assessment Review Court Act, 1972. This Court is an administrative tribunal which draws its jurisdiction from The Assessment Act and The Municipal Act and may exercise it in matters relating to:

1. hearing and determining complaints with respect to the assessment of real property in Ontario for the purpose of municipal taxation

2. hearing and determining appeals from decisions of Municipal Clerks regarding the allocation of school support for municipal taxation

3. upon application determining the apportionment of municipal taxes or rates applicable to individual parcels where land has been assessed in block

4. where authorized by municipal by-law or by way of appeal upon application, grant cancellations, reductions or refunds of municipal taxes paid in the year in respect of which the applications or appeals are made. When authorized by Municipal Council considering a Municipal Treasurer's recommendation for an increase in municipal taxes where gross or manifest errors have been made in the preparation of the tax roll. Where such applications or recommendations are dealt with by Municipal Council, considering appeals against the decisions of the Municipal Council.

Administrative Functions

In addition to their duties and responsibilities regarding the processing and scheduling for hearing of assessment complaints, the Regional Registrars of the Court certify the last revised assessment roll of each municipality and also process and schedule all assessment appeals to County or District Court Judges within the Province under Section 55 of The Assessment Act.

Boards and Commissions

Summary of Activities

The following is a brief report of the main activities of the Court during the period April 1, 1975 to March 31, 1976.

1. Court Sittings

During the period the Court held 1,692 sittings in various municipalities and localities throughout the province and resolved 93,058 complaints, appeals and applications.

The municipalities of East Parry Sound and West Carlton were proclaimed by the Lieutenant Governor in Council at market value for assessment purposes. Special concentrated court hearings were arranged in those municipalities to hear and resolve complaints and appeals arising from the re-assessments.

Subsequent to The Assessment Amendment Act, 1975 (Bill 8) the condominium and co-operative housing units were assessed on the same proportion of the market value as the owner-occupied single family residences in the vicinity were assessed. This amendment has influenced a substantial reduction in the complaints relating to condominium and co-operative housing units to the Assessment Review Court and also allowed the Regional Registrars to process in excess of 22,000 appeals to County and District Court Judges which were still outstanding from previous years.

During the 1975-76 fiscal year the Assessment Review Court has experienced a marked increase in the assessment complaints relating to income-producing properties such as apartment houses; office buildings, commercial strips and commercial plazas.

2. Training and Development of Court Members and Staff

During the 1975-76 period groups of Court Members attended instructional two-day seminars at Orillia, Niagara Falls, Ottawa and Toronto. In addition, special regional one-day seminars for members were held at Kitchener, Kingston, Sudbury and Toronto.

Regional Registrars and Assistant Regional Registrars of the Court attended five instructional one-day seminars in Toronto and Nottawasaga.

Clerks of the Court also attended instructional one-day seminars on a regional basis in Kitchener,

Thunder Bay, Sault Ste. Marie and Toronto.

3. Administrative Improvements

During the period the Court has introduced uniform procedures to be applied at court hearings and also revised the necessary statutory forms, such as Notices of Hearing, Court Records and Notices of Decision relating to all aspects of operations under the court's jurisdiction.

In 1975 the Court instituted for the first time special "assignment hearings" in Metro Toronto, Ottawa, Windsor, London and Sudbury to arrange dates for trial of assessment complaints relating to income-producing properties. This new procedure was necessary in order to expedite the hearing of such complaints which are being filed with the court in an ever increasing number and the complainants are represented by legal counsel and professional agents.

Summary of Assessment Review Court Complaints and Appeals

	1973-74	1974-75	1975-76
Section 52 of The Assessment Act (1)	40,538	70,221	58,212
Section 44 of The Assessment Act (2)	4,841	12,449	16,436
Sections 516, 547, 636a, 636b of The Municipal Act (3)	10,552	13,176	18,410
Total	55,931	95,846	93,058

- Note: (1) This section deals with complaints against annual assessment made under Section 40 of the Act.
- (2) This section deals with complaints against additional assessment under Sections 42 and 43 of the Act.
- (3) These sections deal with applications and appeals relating to:
- (a) School support
 - (b) Apportionment of municipal taxes
 - (c) Cancellation, reduction, or refund of municipal taxes
 - (d) Increase in municipal taxes by reason of clerical errors

Summary of Appeals to County and District Court Judges (Section 55 of The Assessment Act)

	1973-74	1974-75	1975-76
Appeals	6,949	14,324	3,723

Criminal Injuries Compensation Board

Chairman: Allan Grossman

Vice Chairman: Shaun MacGrath

Members (part-time): Anne Austin
S. David Cork
Audrey Merrett
Edward W. Tyrrell, Q.C.
R.C. Rutherford, Q.C.
A. Roy Willmott, Q.C.
(retired Feb. 15, 1976)

The Criminal Injuries Compensation Board, composed of both full-time and part-time members from various segments of the community, administers The Compensation for Victims of Crime Act, 1971, the successor to The Law Enforcement Compensation Act, 1967.

Function

The Board decides upon the eligibility of applicants for compensation as well as the amount of compensation to be awarded. Compensation is awarded, for personal injury only, when a person in Ontario is injured or killed as a result of a crime of violence which is an offence against the Criminal Code of Canada. Such offences include assault, wounding, murder, rape and various others. Injuries caused by a motor vehicle is excluded from the Act unless the vehicle is used to commit an assault. Compensation may also be awarded where an injury is sustained while lawfully arresting or attempting to arrest a person for an offence against another person; assisting a law enforcement officer in the performance of his duties; or preventing or attempting to prevent an offence against another person.

Public Awareness

Hearings are conducted weekly in Toronto. Additionally, the Board, in the year under review, conducted hearings in Ottawa, Thunder Bay, Windsor, Sault Ste. Marie and Sudbury. These hearings were concurrent with the normal Toronto hearings and it is the intention of the Board to continue to visit these provincial centres as often as the number of applications from those areas warrant.

During the year ended March 31, 1976, the media across the province gave widespread prominence to

the awards. In February and March, 1976, a province-wide advertising campaign was undertaken in a substantial number of weekly newspapers. Foreign language papers in Ontario were included in this programme.

Members of the Board have, during the year, spoken to a number of different police associations and groups of law students, informing them of the Act and how these groups can assist in making the Act better known.

Board's Annual Report

This is available directly from the Board's offices at 505 University Avenue, Toronto,
Telephone: 965-4755.

Brochures in various languages are also readily available and these are to be found also in court houses, police stations, legal aid offices and a number of other public buildings throughout Ontario.

Media Support

In acknowledging the support of police forces, Crown Law officers, members of the medical, dental and legal professions, the Board also wishes to acknowledge the support of the media in Toronto and elsewhere regarding coverage given to hearings and awards made under the Act. All hearings are open to both the general public and the press, except on occasions where there are hearings relative to criminal injuries sustained by minors or injuries involving rape or indecent assault charges. The coverage given the Board's compensation payments has been of great assistance in making this particular Act much better known and understood.

As will be seen from the following table of applications received, and their disposition, there has been a tremendous increase in the volume of applications being received each month.

Boards and Commissions

Comparative Summary for Fiscal Years — Applications and Dispositions

	1972-73	1973-74	1974-75	1975-76
Eligible Applications Received	486	510	639	851
Applications Heard (1)	461	510	381	473
Applications Heard and Dismissed	51	22	40	75
Applications Heard — Further Evidence Required	13	5	6	1
Second Hearings	3	4	8	4
Review of Awards	4	1	1	1
Decisions Completed and Awards Ordered (2)	433	402	349	451
Interim Awards	6	3	0	3
Supplementary Awards	16	27	12	19
Periodic Awards	19	10	16	12
Lump Sum Payments	\$ 556,831.44	\$ 591,944.26	\$ 561,944.26	\$ 708,640.29
Periodic Payments	\$ 74,339.00	\$ 130,963.07	\$ 165,814.00	\$ 194,038.00
Total of Awards Ordered	\$ 631,170.44	\$ 722,637.33	\$ 726,928.03	\$ 902,678.29
Average Award (3)	\$ 1,285.98	\$ 1,472.50	\$ 1,607.77	\$ 1,425.84
Hearings Pending	393	426	599	914

Note: (1) Includes Heard and Dismissed and Heard and Further Evidence Required.

(2) Includes Interim, Supplementary and Periodic Awards.

(3) Periodic Payments not included when arriving at Average Award.

Land Compensation Board

Chairman: J.S. Yoerger, Q.C.

Changing Workload

Applications by way of Notices of Arbitration served by landowners and expropriating authorities for determination by the Land Compensation Board continue to increase. Compensation claims are based on the market value of expropriated land, or for damages related to disturbance of business, the effects of an expropriation on a claimant's remaining land, or personal loss. Some expropriating authorities appear to be adopting the practice of initiating at one time Notices of Arbitration for many expropriations relating to one project.

A small number of applications has been made for compensation by arbitration on consent where

there has been no expropriation under the provisions of section 30 (a) of The Expropriations Act, which received Royal Assent on May 2, 1975.

Hearings — Scheduling and Effectiveness

The efficiency of the arbitration process depends largely on the speed with which the parties complete their pleadings, examinations for discovery, exchange of reports and related preparatory matters. Faced with an increasing workload, the Board has introduced a tighter scheduling of hearings in an effort to keep pace.

The Board complement remains at nine members, of whom the Chairman and two Vice Chairmen must, under The Expropriations Act, be members of the bar of one of the provinces of Canada and are also required to be one of the statutory quorum of three members.

Report of Operations

1975-76		1975-76	
Notices of Arbitration		Notices of Motion	
Filed with the Board	168	Filed with the Board	23
Hearings completed (total)	33	Completed	21
in Metropolitan Toronto	15	Adjourned	1
Outside Metropolitan Toronto	18	To be heard	1
Total Amount Claimed	\$ 12,091,601		
Total Amount Awarded	\$ 4,487,048		

Comparative Statistics

	1971-72	1972-73	1973-74	1974-75	1975-76	Total
Notices of Arbitration						
Applications Received	218	99	79	132	168	696
Applications Completed						
(a) by Arbitration	28	46	26	33	38	171
(b) by Settlement	33	28	73	45	43	222
Written Decisions of the Board	28	46	26	33	36	169
Decisions Pending					2	
Awards of the Board (see Schedule B)						
Notices of Motion						
Applications Received	13	15	25	22	23	98
Written Rulings of the Board	6	7	12	19	20	64

Board of Negotiation

Chairman: W.C. Dymond

Members: J.M. Bennett
J.A. Ferguson
F.L. Heaman
W.J. Mowat
L.J. Schedlin

Function

The Board of Negotiation was created by the provisions of The Expropriations Act, 1968-69. It provides an informal tribunal which, without prejudice to any subsequent arbitration procedures, may negotiate in a summary and informal manner of settlement of a compensation in expropriation cases.

Informality

The Board, upon receiving a written request from either party, arranges meetings between the expropriated party and the expropriating authority. A formal notice is issued to both parties, advising them of the time and place of the meeting, which can be held throughout the province without cost to either party. A unique provision of the Act provides that the Board shall view the property in question.

An individual may appear on his own behalf to present his compensation claim. If no agreement follows these informal negotiations, the parties are free to proceed to arbitration to the Ontario Land Compensation Board.

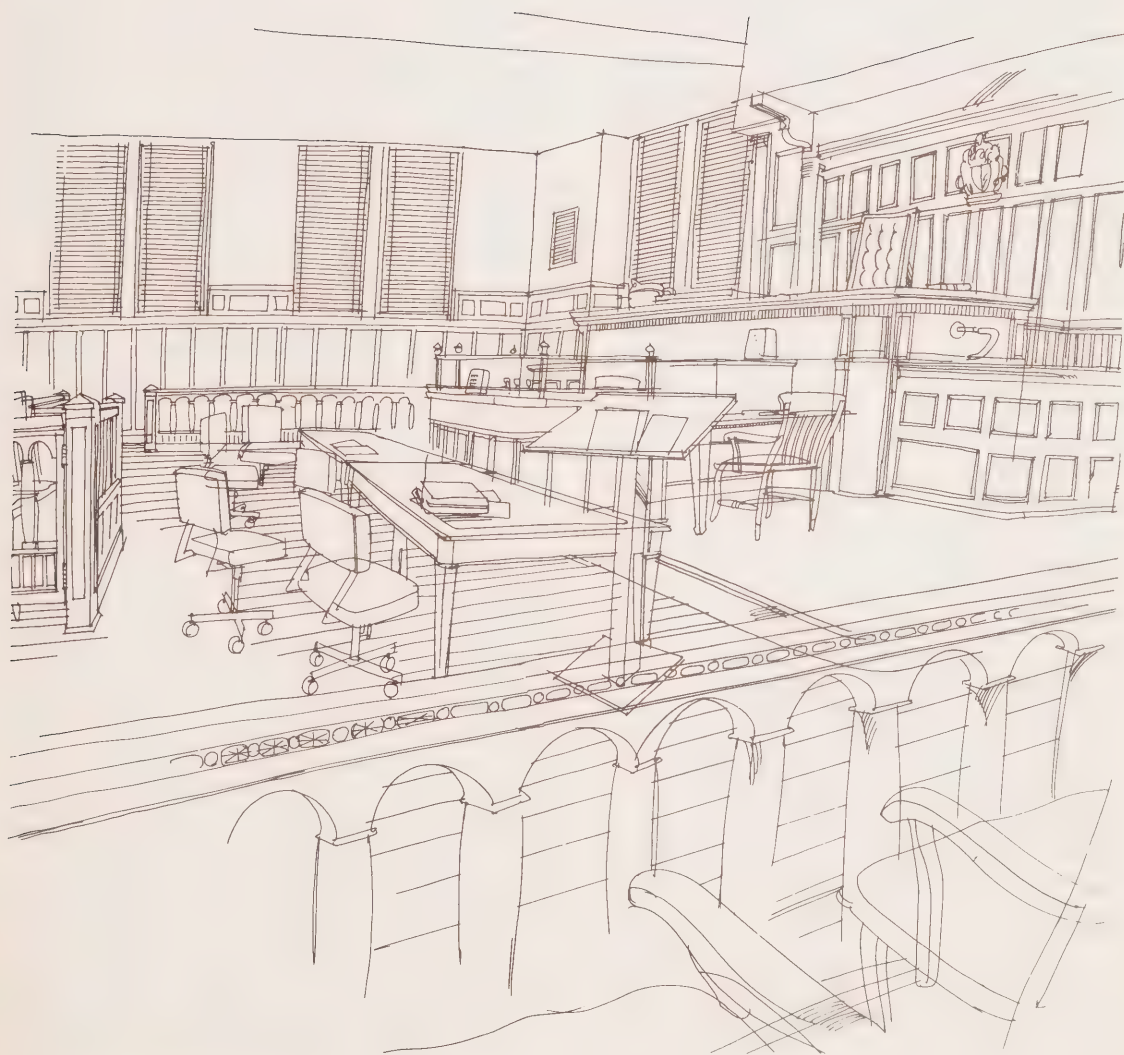
Boards and Commissions

Activity Report

	1974-75	1975-76
Request for Hearings	298	270
Hearings Held	283	196
Outstanding	34	47

Statistical Review

	Number of Applications 1975-76
Expropriating Party	
Board of Education — Toronto	1
Borough of North York	1
City of Belleville	1
City of Burlington	2
City of Hamilton	11
City of Kingston	1
City of Kitchener	2
City of London	1
City of North Bay	1
City of Sault Ste. Marie	7
City of Sudbury	1
Corporation of the County of Brant	1
Corporation of the County of Middlesex	2
Corporation of the Town of Cobourg	1
Corporation of the Town of Grimsby	3
Corporation of the Township of Nepean	4
Corporation of the Township of North Dumfries	1
Corporation of the Township of Vespra	1
Metropolitan Separate School Board	2
Ministry of Housing	9
Ministry of Transportation and Communications	57
Municipality of Metro Toronto	26
Municipality of Metro Toronto — Subway Property Committee	1
Niagara Parks Commission	1
Ontario Hydro	61
Regional Municipality of Halton	4
Regional Municipality of Hamilton-Wentworth	1
Regional Municipality of Niagara	9
Regional Municipality of Ottawa-Carlton	51
Regional Municipality of Waterloo	1
Sun-Canadian Pipe Line Company Limited	1
Union Gas Company of Canada Limited	4
Total	270



Background Paper

The Challenge of the Minor Offence

A flood of minor, non-criminal offences threatens to engulf the administration of justice if new ways are not found to dispose of them with more speed and efficiency.

Although most people think of the courts in terms of dramatic criminal trials, the summary conviction offence bulks larger in court workload and poses more challenges to the administration of justice. In terms of workload and administrative burden, traffic and parking offences are infinitely more important to the administration of justice than serious criminal cases. While public attention focusses on the murder trial, very few members of the public have any direct personal contact with a criminal trial of any sort. But many members of the public do have contact with the courts and the administration of justice through a traffic ticket or parking tag.

The big problem is volume. While the courts may in one year receive about a quarter of a million criminal charges, they receive over three and a half million other types of cases including provincial traffic and liquor charges and municipal by-laws. Although criminal cases receive the lion's share of attention and comment, they comprise about one twelfth of total case volume. Because the basic structure of a trial for a parking tag is the same as the structure of a trial for capital murder, and because the minor cases often attract as much paperwork as serious ones, the minor offences are clogging the courts to the detriment of more serious business.

The Ministry has, over the last few years, gradually evolved a new approach to minor offences. That approach has included the development of the Uniform Traffic Ticket and then the Summary Conviction Ticket, the North York Traffic Tribunal, and the Default Fine Control Centre. The evolution of the new approach is not yet complete. We hope that the next few years will see an increase in tempo and an acceleration of the search for new ways to deal with minor offences.

Provincial summary conviction offences, no matter how minor, have traditionally been processed exactly the same way as criminal offences. Criminal offences, which can only be created by the federal government, are divided into two categories.

The more serious crimes are indictable offences and less serious crimes are summary conviction offences. Although summary conviction procedures are slightly less formal and more flexible, they are nonetheless criminal in nature. Provincial offences, while not criminal in nature, are processed in basically the same manner as criminal summary conviction offences. Thus a trial for an alleged parking offence resembles in structure a murder trial.

Although Ontario, like the other provinces, adopts criminal summary conviction procedure as the basis for dealing with provincial offences, Ontario has taken a number of initiatives to soften the criminal type of procedure used for provincial offences. For instance a person charged with a provincial offence may be served with a summons by mail, instead of having a policeman appear at the home of the accused to serve him personally. If the mailed summons is not honoured, however, it is necessary for a policeman to search out and personally serve the accused, or to go to his home and leave the summons personally with someone else there.

There are other ways in which Ontario offences are dealt with differently at the "front end" of the system. One innovation was the Uniform Traffic Ticket, which enabled a motorist to be served on the spot with a summons setting out the exact charge, rather than waiting weeks for a mailed summons or personal service by a police officer. This innovation proved successful and was extended in 1972, by means of the Summary Conviction Ticket, to the full range of provincial offences. As well as saving police and clerical manpower by cutting through the normal mass of paper generated by any minor charge, the procedure enables the accused to plead guilty out of court by signing a guilty plea and sending in to the court a pre-determined penalty which is shown on the summons.

Another major step was taken in 1972 when *The Highway Traffic Act* was amended to provide for the suspension of a driver's licence, instead of the imposition of a jail term, for the driver who failed to pay a traffic fine. Formerly an unpaid traffic fine resulted, in most cases, in a warrant of committal to jail for nonpayment of the fine. The 1972 amendment permitted the court, instead of issuing a warrant of committal, to order the suspension of the driver's licence of the driver who

has not paid his fine within the time allowed by the court.

Although this change sounds simple, it represents a profound change in approach. It is the first step away from the traditional approach of the criminal law, which backs up its sanction of a fine with a threat of imprisonment. This heavy handed approach was adopted for all offences under the criminal law, no matter how minor or serious, and regardless of the nature of the offence. And this sanction found its way into Ontario's treatment of provincial offences, again regardless of the nature or gravity of the offence.

A jail term in default of payment of a fine is of course open to the criticism that it is a penalty which applies only to the poor, who cannot afford to pay the fine. Perhaps more seriously, the automatic application of this sanction is completely at odds with the principle that the punishment should fit the crime. The Ministry is now undertaking a complete review of the philosophy behind provincial offences in order to provide more realistic procedures and more appropriate sanctions, tailored to fit the many kinds and degrees of prohibited conduct under Ontario statutes. The imposition of a driver's licence suspension for failure to pay a traffic fine is a first step in that direction. The law no longer says "If you do not pay the penalty for abusing the driving privileges, you will go to jail". The law now says, instead, "If you do not pay the penalty for abusing your driving privileges, you will lose those very privileges until you honour your legal obligation".

Although the logic is simple, the administration of that logic can be somewhat complex. The administration of the default fine suspension system involves a delicate balance of functions between the courts, the police and the driver's licence system. The Ministry of the Attorney General, through its default fine control system, collects information on suspension orders and outstanding fines from the courts. This information is passed on to the Ministry of Transportation and Communications, where the suspension is made by the Registrar of Motor Vehicles and an attempt is made to inform the person suspended. The notice of suspension is then passed on to the Suspended Driver Control Unit in the Ontario Provincial Police where it is fed into a police computer information

system. When the suspended driver pays his fine, the same route is followed for his reinstatement.

In the result, one job — the replacement of jail by licence suspension — occupies separate units in three Ministries, and each separate unit deals with essentially the same information. There is some inevitable duplication of work and records, because three separate systems are involved in processing the suspensions and reinstatements. This causes delays and time lags and some real inconvenience to the public. Each Ministry is struggling to maintain its part of the system in the face of rising workload and frozen financial and staff resources.

Despite major administrative problems the default fine suspension system does work, and does prove that its concept is sound. Since its introduction it has processed approximately 200,000 suspensions. Although the reinstatement rate varies, it appears that over three quarters of the suspensions do result in the payment of outstanding fines. Millions of dollars in outstanding fines have been collected. One significance of this success is that outstanding obligations can be enforced by measures other than the threat of jail. If an accused goes to jail rather than pay his fine, the taxpayer pays to support him at public expense for his stay in jail and as well as losing his liberty he actually costs the public purse a good deal. Once the option of jail is removed, the obligation must be faced or the privilege of driving revoked.

Although the system works, it does have problems. In fact the backlog of outstanding fines has increased very substantially over the last few years. Some duplication, inefficiency, and delay are caused simply because there are three separate organizations in three separate Ministries all doing part of the same single job. Some problems are caused by lack of resources and the inability of each Ministry to dedicate enough people and money to make the system work. There are some administrative growing pains and some difficulties in co-ordination, all of which are now receiving attention which should soon yield solutions to the administrative difficulties.

The work could be done more quickly and efficiently if all of the activity was brought together in a single physical location and a single centre of responsibility. More and better use could be made

Background Paper

of computer technology. A centralized system of accounting and payments would relieve police forces and members of the public from much of the inconvenience caused by the present system. For instance a driver with outstanding fines at a number of different court locations must satisfy payment at each court location before his privileges can be reinstated. The suspended driver who attends at the default fine control centre to fulfil his obligations and straighten out his suspension must now, because of the decentralized nature of the present system, be sent on a round of mailings and visits to other offices before he can obtain reinstatement. Even then there can be some time lag between payment and reinstatement and notification of reinstatement. The result can be confusing and frustrating not only to the suspended driver but also to the officer who has the responsibility of enforcing the suspension order.

The present system plunges police forces into a welter of bookkeeping and accounting procedures which are not really part of the police function, particularly in cases where a warrant of committal has been executed and payment must be made to a number of different court offices. A centralized payment system would relieve the police of these complex accounting procedures. A centralized system would also help ensure that information on defaulting drivers was accurate, accessible and up to date.

Thought is being given not only to improving the default fine suspension system, but to expanding it. The use of the system is optional. Once the present administrative difficulties are solved, the system could be expanded by making its use mandatory and not optional, thus taking a further step towards the ultimate abolition of jail in default of fine.

Studies of the American experience show that the most effective systems depend on a denial of vehicle registration renewal and denial of driver's licence renewal rather than a simple suspension of existing privileges. Under this denial of registration system, the driver or vehicle owner with unpaid fines for vehicle offences will not get a new driver's licence or vehicle registration until he satisfies his obligations to the court. This system permits a centralization of the payment and enforcement

process and cuts through the cumbersome hit-and-miss system based on a bare denial of existing privileges. It places the onus on the offender to satisfy his obligations rather than have enforcement officials chase the offender around until the fines are paid. It takes the police out of the debt collection business.

A new system based on denial of re-registration of drivers and vehicle licences would do more than simply reduce jail in default of fine. It would essentially take the police out of the debt-collecting process, as recommended by Mr. Justice Morand in the Report of the Royal Commission into Metropolitan Toronto Police Practices. It would reduce the chance of confrontation and shift a good deal more responsibility directly to the driver or car owner who has abused his or her driving privileges. It would also dovetail the penalty with the crime and take most of the enforcement process out of the criminal justice system and into a more appropriate civil system of enforcement.

Denial of re-registration can be even more effective when based on a plate-to-owner concept, rather than the plate-to-vehicle concept now followed in Ontario. If the plate follows the owner rather than the vehicle, the plate number will serve as a highly visible method of identification. This will be a much more efficient method of enforcement than relying on the chance that a suspended driver might be stopped by the police and then identified by the police information system as a suspended driver. A plate-to-owner concept would also make it possible to bring parking violations into the system. Parking violations — where the sanction is imposed against the owner and not the driver of the vehicle — are not now part of the default fine suspension system. Warrants of committal for parking violations now make up the great bulk of imprisonment in default of fines. If a plate-to-owner concept were introduced and linked to a system based on denial at re-registration, the great bulk of unnecessary imprisonment could be eliminated. A real attack could thus be made on imprisonment in default of payment. The jail population of the province would be reduced by thousands. The distressing situation which now obtains, with thousands of people serving time in jail as an alternative to paying a fine, would be largely eliminated. A good deal of inter-ministry activity is now being

devoted to the development of administrative techniques that can accomplish this end.

These administrative approaches are being actively canvassed in order to reduce, with a view towards virtually eliminating, jail in default of fine and taking the police out of the debt-collecting business. However these relics of a by-gone age — debtor's prison and the use of constables to collect money debts — are really just the symptoms of a much larger problem in the administration of justice. These very visible problems are merely part of the surface structure of the whole system of law and courts. The real problems lurk in the deep structure of the system — in the basic mind-set which dictates the way that the courts deal with minor offences. The deep structural problem is the attitude that every infraction, however minor, must be treated the same way as a major criminal charge.

The man who receives a little yellow ticket for parking his car illegally on Queen's Park Crescent is now entitled to a trial in court with virtually all the trappings of an Assize trial for murder. Although there would of course be some differences in appearance between the two trials, the structural properties of the two trials and the mind-set that infuses all of the actors in the trials, from the judges to the clerks who process the paper, would be identical. Although the methods now used for minor provincial offences were originally, in the context of a criminal trial, methods which secured procedural fairness to the accused, the unthinking transfer of these criminal procedures to minor offences has not been a happy experience. The pressures of volume and the fact that infractions are not criminal in nature have so distorted the criminal procedures that they simply clog the system and delay individual cases inordinately without fulfilling their original purpose. The Ontario Law Reform Commission, in its report on the Administration of Ontario Courts, reviewed the problem and stated:

The whole system of administration of provincial offences is collapsing, not only in court but also with respect to the service of summonses, execution of warrants and the vast amount of related paperwork.

The North York Traffic Tribunal represents a major attack on these problems and the first real step towards decriminalizing traffic offences. The project now operates in North York and is slated for expansion into other parts of Metropolitan Toronto. The basic approach is to remove the hearing of traffic offences from the criminal court setting and link the more informal hearing process to a driver training course. Major features include informality, flexibility, a new process of permitting a plea of "guilty with an explanation", and the absence of a prosecutor from the hearing. The public has accepted this new approach with enthusiasm. Research studies show that the project has resulted in a better public understanding of the hearing procedures, less wasted police time in court, fewer contested trials, improvement in driving habits, a reduced backlog and much less delay in the hearing of cases. Despite the proven success of this new approach to traffic cases, money has not yet been available to extend the programme to other areas. The project, though limited by lack of funds, has proved that new approaches are possible and that they will work.

The use of the Uniform Traffic Ticket and Summary Conviction Ticket, the default fine suspension system, and the North York Traffic Tribunal represent new ways of thinking about minor offences. They represent the first stages in a profound rethinking of the role of the courts and the justice system with respect to minor offences. *The Summary Convictions Act* is being reviewed with the goal of extending these new ways of thinking and developing a whole new approach in order to unclog the courts and deal with minor offences with more speed, flexibility and fairness. Although changes in the justice system come slowly and only with hard work, the process of change is well underway and will, with enough support, continue to meet and overcome the challenges posed to the administration of justice by minor offences.

Appendix

Acts Administered by the Ministry of the Attorney General

Absconding Debtors Act
Absentees Act
Accidental Fires Act
Accumulations Act
Administration of Justice Act
Age of Majority and Accountability Act, 1971
Aliens' Real Property Act
Arbitrations Act
Architects Act
Assessment Review Court Act, 1972
Assignments and Preferences Act

Bail Act
Barristers Act
Blind Persons' Rights Act, 1976
Bulk Sales Act
Business Records Protection Act

Change of Name Act
Charitable Gifts Act
Charities Accounting Act
Children's Maintenance Act
Commissioners for Taking Affidavits Act
Compensation for Victims of Crime Act, 1971
Constitutional Questions Act
Conveyancing And Law of Property Act
Costs of Distress Act
County Court Judges' Criminal Courts Act
County Courts Act
County Judges Act
Creditors' Relief Act
Crown Administration of Estates Act
Crown Agency Act
Crown Attorneys Act
Crown Witnesses Act

Dependants' Relief Act
Deserted Wives' and Children's Maintenance Act
Devolution of Estates Act
Disorderly Houses Act
Dominion Courts Act
Dower Act

Escheats Act
Estreats Act
Evidence Act
Execution Act
Expropriations Act
Extra-Judicial Services Act

Factors Act
Family Law Reform Act, 1975
Fatal Accidents Act
Fines and Forfeitures Act
Fraudulent Conveyances Act
Fraudulent Debtors Arrest Act
Frustrated Contracts Act

Gaming Act
General Sessions Act
Habeas Corpus Act
Hospitals and Charitable Institutions Inquiries Act
Hotel Registration of Guests Act

Infants Act
Innkeepers Act
Interpretation Act

Judges' Orders Enforcement Act
Judicature Act
Judicial Review Procedure Act, 1971
Juries Act, 1974
Justices of the Peace Act

Landlord and Tenant Act
Law Society Act
Legal Aid Act
Legitimacy Act
Libel and Slander Act
Limitations Act
Lord's Day (Ontario) Act

Married Women's Property Act
Master and Servant Act
Matrimonial Causes Act
Mechanics' Lien Act
Mental Incompetency Act
Mercantile Law Amendment Act
Ministry of the Attorney General Act (formerly
Department of Justice Act)

Minors Protection Act
Mortgages Act
Municipal Conflict of Interest Act, 1972

Negligence Act
Notaries Act

Ontario Law Reform Commission Act
Ontario Municipal Board Act

Parents' Maintenance Act
Partition Act
Partnerships Act
Pawnbrokers Act
Perpetuities Act
Petty Trespass Act
Powers of Attorney Act
Proceedings Against the Crown Act
Professional Engineers Act
Property and Civil Rights Act
Provincial Courts Act
Public Accountancy Act
Public Authorities Protection Act
Public Halls Act
Public Inquiries Act, 1971
Public Institutions Inspection Act, 1974
Public Officers Act
Public Officers' Fees Act
Public Trustee Act

Variation of Trusts Act
Vendors and Purchasers Act
Vexatious Proceedings Act
Vicious Dogs Act

Wages Act
Warehousemen's Lien Act
Warehouse Receipts Act
Wills Act

Quieting Titles Act

Reciprocal Enforcement of Judgments Act
Reciprocal Enforcement of Maintenance Orders Act
Regulations Act
Religious Institutions Act
Replevin Act

Sale of Goods Act
Seduction Act
Settled Estates Act
Sheriffs Act
Short Forms of Conveyances Act
Short Forms of Leases Act
Short Forms of Mortgages Act
Small Claims Courts Act
Solicitors Act
Statute of Frauds
Statutes Act
Statutory Powers Procedure Act, 1971
Summary Convictions Act
Surrogate Courts Act
Survivorship Act

Ticket Speculation Act
Time Act
Trustee Act

Unconscionable Transactions Relief Act
University Expropriation Powers Act



Ministry of the
Attorney
General

Civil
Publics

DN

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annual report

1976-77

To Her Honour the Lieutenant Governor in
Council

May it please Your Honour:

It is my pleasure to present to your Honour
the Annual Report of the Ministry of the
Attorney General for the year 1976-77.



A handwritten signature in dark ink, which appears to read "R. Roy McMurtry". The signature is stylized with large, flowing loops.

The Honourable R. Roy McMurtry, Q.C.
Attorney General



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Letter from the Deputy Attorney

November 21, 1977

The Honourable R. Roy McMurtry, Q.C.,
Attorney General for Ontario
18th Floor, 18 King Street East,
Toronto, Ontario

Dear Mr. Attorney,

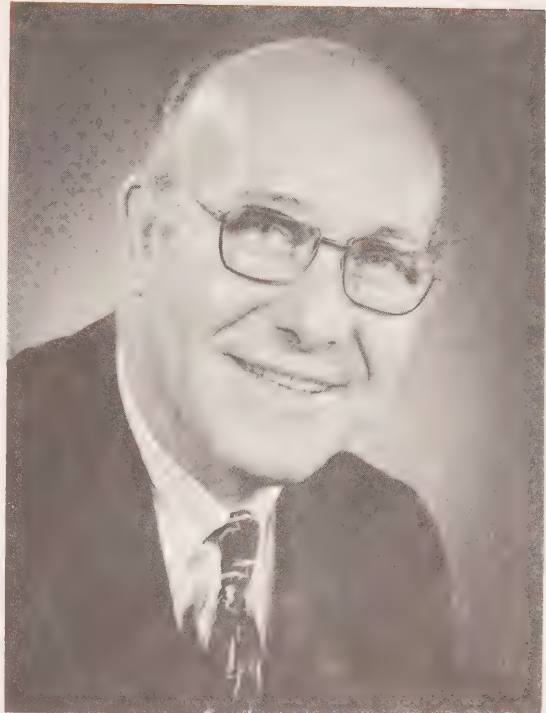
In accordance with the provisions of Section 7 of the Ministry of the Attorney General Act, I am pleased to present our third Annual Report outlining the activities of the Ministry during the year 1976 to 1977.

The past year has seen the Ministry continue to grow and develop and this Report describes a number of innovative new programs designed to enhance the quality of the administration of justice.

During the last year, F.W. Callaghan, Q.C., resigned as Deputy Attorney General to assume an appointment as Senior Judge for the Judicial District of York. His presence will be sorely missed by all of us. For five years, the Ministry was guided by his firm hand, sound judgment and deep and abiding concern for justice. This Report bears witness to his work and wisdom.

I am very much aware that the continued successful operation of this Ministry depends not merely on more senior staff and policy-makers, but on the tireless, dedicated and all too often unrecognized contribution of literally thousands of individual men and women working within the Ministry. To state what they have done is at the same time to express our thanks and appreciation to them.

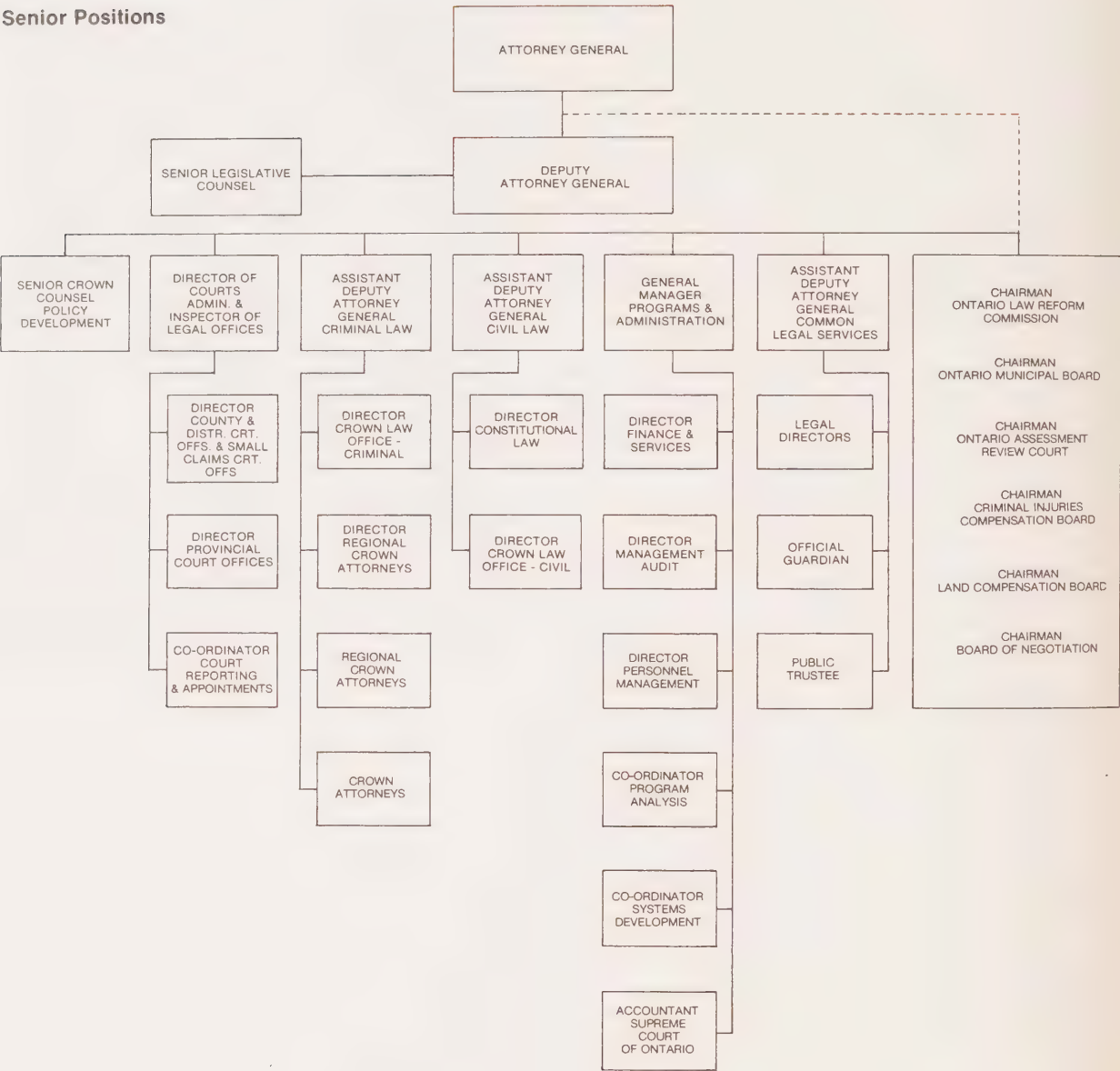
All of which is respectfully submitted.



H. Allan Leal, Q.C.,
Deputy Attorney General

The Ministry of the Attorney General

Senior Positions



Office of the Legislative Counsel

Arthur N. Stone, Q.C.,
Senior Legislative Counsel

This office consists of eight lawyers, eight clerks and four legislative editors.

The duties and responsibilities of the Office include:

1. Drafting all bills and regulations.
2. Advising and assisting the government, Cabinet ministers, members and committees of the Assembly on all legislative matters.
3. Preparing and overseeing the printing of the annual volume of statutes.
4. Maintaining public files of regulations and publishing the regulations.
5. Maintaining updated proofs of statutes and regulations.

Number of Regulations Drafted and Filed

	1973	1974	1975	1976
Drafted	984	1152	1216	1230
Filed	828	1001	1049	1021

Published pages in Gazette	1941	1767	2457	1717
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1973 Session	Commenced Prorogued	Mar. 20, 1973 Mar. 5, 1974
1974 Session	Commenced Prorogued	Mar. 5, 1974 Feb. 14, 1975
1975 Session	Commenced Dissolved	Mar. 11, 1975 Aug. 11, 1975
1975 2nd Session	Commenced Prorogued	Oct. 28, 1975 Dec. 18, 1975
1976 1st Session	Commenced Prorogued	Jan. 15, 1976 Jan. 16, 1976
1976 2nd Session	Commenced Prorogued	Mar. 9, 1976 Dec. 16, 1976

Number of Bills Drafted, Introduced and Passed

	1973	1974	1975	1976
Government bills —				
Drafted	230	225	191	151
Introduced	185	145	115	101
Passed	177	137	110	87
Private bills —				
Introduced	40	31	32	26
Passed	38	31	31	24
Private member's bills —				
Drafted	94	72	79	104
Introduced	93	58	83	95
Passed	0	0	0	0

Number of pages in statute book	1750	1650	1100	895
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The Ministry of the Attorney General

Policy Development Division

John Cavarzan,
Senior Crown Counsel

The Division

At present the Division, which consists of Senior Crown Counsel and six lawyers, reports to and is directly supervised by the Deputy Attorney General.

Present Duties

The duties of the division include:

1. Studying and analyzing all aspects of the administration of justice in Ontario;
2. Continual review of the 143 statutes administered by the Ministry (see appendix), proposing reform and analyzing suggestions for reform from the Ontario Law Reform Commission, the public, lawyers, other ministries and members of the Legislature.
3. Developing the legislative program of the Ministry, beginning with discussion of suggested legislation with senior staff members of the Ministry, preparing Ministry policy submissions outlining the problem and evaluating all government options for discussion and decision-making by the justice committee of Cabinet and by Cabinet. This process concludes with the creation, in conjunction with Legislative Counsel, of draft bills reflecting Cabinet decisions.
4. Advising the Attorney General and Deputy Attorney General during the legislative progress of a bill. This generally involves attending the Legislative Assembly with the Attorney General to advise him about the bill, if necessary, and to help him answer detailed technical questions which may arise during debate.

The division is also responsible for the Ministry Library, which serves the Crown Law Office and (about 50) field offices.

Relationship with Other Organizational Units

To do its job, the division must have close relationships with a number of organizational units both within the Ministry and independent of it. There is constant liaison and co-operation with the Crown Law Office. Through these efforts some projects are conducted jointly and duplication is avoided. The Policy Development Division maintains a co-operative relationship with the Ontario Law Reform Commission. While

the independence of the commission is at all times recognized and respected, there is an exchange of research material and ideas.

There is constant demand for interaction with other ministries and policy fields, with the federal Department of Justice, and with public interest groups. The division's involvement enables it to keep abreast of many activities and proposals which may affect the administration of justice in the province.

Examples of Activity

Legislation

The legislative program has focused on family law reform in the past year. The following bills have been introduced:

1. The Family Law Reform Act, 1977 (previously introduced in similar form as The Family Law Reform Act, 1976). The Act is a comprehensive reform of family law in the areas of family property, support obligations, the matrimonial home, domestic contracts and damage claims for the death or injury of a family member.
 2. The Marriage Act, 1977 (previously introduced as The Marriage Act, 1976). The Act revises the existing Marriage Act in accordance with recommendations of the Ontario Law Reform Commission and makes other improvements.
 3. The Succession Law Reform Act, 1977 (previously introduced in similar form as The Succession Law Reform Act, 1976). The Act is a comprehensive reform of the law of testate and intestate succession.
 4. The Children's Law Reform Act, 1977 (previously introduced as The Children's Law Reform Act, 1976). The Act removes any legal distinction between legitimate children and illegitimate children and provides for judicial procedures to establish parentage.
- The above bills were introduced in the third session of the 30th Legislature and again in the fourth session. In both cases the bills died on the order paper.
5. The Unified Family Court Act, 1976, establishes as a three-year pilot project in the Judicial District of Hamilton-Wentworth the Unified Family Court, a single court with exclusive jurisdiction over all civil law involving family disputes and criminal law involving juveniles or minor offences committed by one family member against

another. The Unified Family Court began full operation on July 1, 1977.

Other amendments to the statutes administered by this Ministry were made as a result of problems brought to the attention of the Policy Development Division.

The division was deeply involved in the drafting of rules and forms for the Unified Family Court, and continues to be involved in the work of the Rules Committee of the Provincial Courts (Family Division). Regulations and forms pursuant to The Landlord and Tenant Act have been drafted in consultation with the division.

Studies, Papers, Consultation

1. The booklet, Family Law Reform, was prepared and distributed by the division. There was much public response and some modifications were made to the family-law package of legislation as a result. The booklet has been updated and a French translation has been prepared and is being distributed.
2. The division prepared the Ministry's White Paper on Courts Administration, which contains proposals with far-reaching implications for the administration of justice in Ontario. The White Paper was circulated to all members of the legal profession and the judiciary and was made available to the public.
3. There was an extensive review of the provisions of the proposed new federal Bankruptcy Act relating to arrangements for the small debtor.
4. A lawyer from this division was a member of the Attorney General's committee on representation of children. Members of the division have been appointed to various inter-ministerial committees and have attended conferences on behalf of the Ministry.
5. The division initiated a study with a view to developing proposals for legislation to deal with problems regarding the liability of occupiers of land to people entering onto the land and the problems of enforcing occupiers' rights against trespassers. The objective is to protect the legitimate interests of private owners of non-industrial and non-commercial land while encouraging them to permit greater recreational use of their land.

6. The division has continued its involvement in the review of summary-conviction procedure.

7. The division took part in drafting a new Limitations Act based on the report of the Ontario Law Reform Commission.

Uniform Law Conference of Canada

The conference consists of commissioners and other participants from all provinces, the territories and the Federal Government who meet annually to consider reports and proposed statutes aimed at securing greater uniformity in the law of all jurisdictions in Canada.

The division has increasingly taken on work generated by this conference. This year the division has worked with legislative counsel to draft a Uniform Powers of Attorney Act to present to the conference. The division has also prepared a report on declarations of paternity.

The Ministry of the Attorney General

Courts Administration and Inspector of Legal Offices

Graham W.S. Scott,
Director of Courts Administration and
Inspector of Legal Offices

Responsibilities

The Director of Courts Administration and Inspector of Legal Offices is responsible for the general administration of the courts in Ontario including:

- regulating the appointments of commissioners for taking affidavits, notaries public and justices of the peace;
- provision of court reporting for all courts and supervision of court reporters and special examiners;
- ensuring the provision of adequate administrative services to all courts and Observation and Detention Homes, including direction to sheriffs and court registrars, Criminal and Family Court administrators, Small Claims Court clerks and bailiffs;
- liaison with the Ministry of Government Services and the responsibility for court accommodation;
- French Language Services in the courts;
- the Management Information System;
- maintaining liaison between the Ministry of the Attorney General and the judiciary, and the processing of judicial appointments to the Provincial Courts;
- providing direction to and supervision of the Central West Development Project;
- overseeing the Ministry's interest in the Native Courtworker Program.

French Language Programs

During the fiscal year 1976-77 the Ministry began the French Language Services Program in the courts. Planning for the implementation started in early 1976, and at that time it was decided that the Ministry would concentrate its early activities in the Provincial Court (Criminal Division).

The Provincial Court (Criminal Division) was selected because it affects the vast majority of persons coming in contact with the court system. Over ninety-five per cent of the persons involved in criminal proceedings have their cases disposed in this court. Matters coming before this court include: most Criminal Code offences; Highway Traffic Act offences; offences under all other Provincial Statutes including the Game and Fish and Liquor Licensing Acts; and offences under municipal by-laws, including parking infractions.

Forms Program

By June 1, 1976, eleven commonly used forms of the Provincial Court (Criminal Division) had been translated into French and were available in a bilingual format. These forms were: Summary conviction tickets (Summons portion); Summons to accused persons; Warrant for arrest; Appearance notices; Promise to appear; Recognizance of bail; Probation orders; Recognizance before an officer; Undertaking given to a justice; Subpoena to a witness, and Notice of conviction, payment of fine required.

These forms were distributed throughout the Judicial Districts of Sudbury and Ottawa-Carleton and the United Counties of Prescott and Russell (L'Orignal) and Stormont, Dundas and Glengarry (Cornwall).

In June, bilingual forms will also be in use in the districts of Algoma, Cochrane, Timiskaming and Nipissing. With this expansion the forms program will cover some 85 per cent of the population of Ontario who speak French only.

Sudbury Project

Concurrent with the introduction of the bilingual forms, in June 1976 a developmental project was started in Sudbury to provide trials in the French language in the Provincial Court (Criminal Division). The ability to have one's trial conducted in French was extended to all matters before that court, except preliminary hearings. In the first ten months of operation, the court in Sudbury heard 100 charges involving 62 persons in the French language. While this constituted only

a small portion of matters heard in the Sudbury Court, a review carried out in March indicated the procedures were technically sound. There was, however, indication that further public education was desirable. The Project had clearly demonstrated the feasibility of expanding the program to other parts of the province subject to the availability of human resources on the Bench, in the local Bar and in the Ministry.

Expansion of Services, Provincial Court (Criminal Division)

The Attorney General then announced that the program would be expanded to include Ottawa-Carleton, and Prescott and Russell on June 6, 1977, with a further extension planned for Kaposkasing, Hearst, Smooth Rock Falls, Cochrane and Hornepayne in October 1977. When the northeastern expansion takes place in October, French court services will be available to about 66 per cent of Ontario citizens who speak French only.

Provincial Court (Family Division)

The Ministry is currently planning the expansion of French language services into the Provincial Court (Family Division) in Sudbury and subsequently to other regions of the Province. It is expected that a Family Court bilingual forms program will accompany the commencement of the Sudbury Court.

Information Program

As part of the program to increase awareness and understanding of the French Language Services Program in the Courts, the Ministry is preparing materials for use in schools and other key parts of the French speaking community which explain the operations of the French Language Services Program. Approximately 70,000 copies of a pamphlet in French have been distributed.

Human Resources

The largest single factor complicating the provision of French Language services is the shortage of bilingual personnel experienced in the legal system. Less than ten per cent of the Bar is capable of serving clients in the French lan-

guage and a much smaller percentage is engaged in the courts on a regular basis. On the Bench we have a shortage of bilingual Judges which is particularly acute at the Supreme Court level. The Ministry is concerned about this problem and measures are being taken to alleviate it.

Ministerial Task Force on French Language Services

An important development of the year was the creation by the Attorney General of a special ministerial Task Force on the Development of French Language Services in the Courts. This committee, chaired by the Deputy Attorney General, advises the Attorney General on all aspects of the development of services in Ontario's Court System.

The Task Force is responsible for developing guidelines in this complex area of planning involving legal procedures, legislative requirements, physical accommodation and procedures, and allocation of human resources within the Ministry.

In addition to the program in the Provincial Courts, the Task Force will advise the Attorney General on the future provision of French Language Services in the County and Supreme Court.

County and District Court Offices Small Claims Court Offices

Ron McFarland,
Director

County and District Court Offices

The director provides administrative direction for County and District Court offices. In liaison with the regional co-ordinators through the inspector of legal offices, he develops and implements policies of the Ministry relating to procedures and training programs.

During the past year, in addition to the regular regional seminars, instructional seminars were held in all areas for officials and their deputies. These seminars were designed to meet the growing needs of all offices in the field of taxation of costs. The main thrust was to review the general principles of taxing party and party costs and solicitor and client bills.

The Ministry of the Attorney General

Standard procedures have been developed to help the offices process an ever-increasing volume of litigation. Other changes, particularly in case-flow management, are being assessed to ensure that persons using the court system are adequately served.

Appointments have been made upon the retirement or death of sheriffs and court registrars during the past year. John N. Bragg replaced the late J.H. Symington in Brantford. R. Bruce Hamilton replaced Robert H. Sloan in Ottawa. Richard Beaudoin replaced Alfred A. Bishop in Woodstock. John E. Boyd replaced Gordon Pepper in Lindsay. Richard Lamoureux replaced R.M. Scott in Cornwall.

Regional Co-ordinators

The educational seminars introduced during 1976 are being continued. The regional co-ordinators, through the inspector of legal offices, play a continuing vital role in order to develop growth in the offices.

There have been two additions to the regularly published Sheriffs' and Court Registrars Newsletters: Conover's comments are an informative outline of changes in practice and procedure for local registrars, S.C.O. Taxation tips have been included as a follow-up to the regional taxation seminars.

Several narrative procedures, including flow charts, have been prepared and they will be the basis of a revised procedural manual for sheriffs and court registrars. During the coming year's regional seminars they will be reviewed and any necessary changes will be made before the final printing.

In the coming year staffing standards will be determined, based on the volume of litigation together with the quasi-judicial functions of the officials. The staffs of the offices will be invited to the regional seminars, a major step in the introduction of a formal training program.

Small Claims Court Offices

The director is responsible for planning and preparing recommendations to improve the operation of the court offices. He is also charged with investigating complaints about day-to-day administration of the court offices and with providing administrative direction as required.

Small Claims Courts' New Initiatives

During the past year an intensive study was begun to develop an information system relating to the increasing workload in these offices.

Standardized forms are expected to be introduced in the courts in the coming year. Regional seminars are being planned for the fall of 1977. The present manual for clerks is being revised and it will be the basis of more standardized procedures. Throughout the province the present fee structure is under review, as is the monetary jurisdiction of the courts.

Provincial Court Offices

Alex Mackay,
Director

The staffs of the Provincial Court Offices continue to provide administrative support to the Judiciary in the Criminal Division and the Family Division and to serve the public, lawyers and enforcement agencies who use those Courts. There are 113 main offices as well as 40 satellite locations.

In the Criminal Division, the program of unified office standards initiated last year continues to provide greater flexibility in staff and reduce unnecessary clerical function. A constant refinement of these procedures continues as a result of ongoing training programs and regular review of field procedures employed by Court Administration.

The Family Division has no unified office standards and, therefore, the functional areas differ from office to office. Staff resources are allocated primarily on caseload and therefore cannot meet all the objectives set in a particular jurisdiction. The demands set on the Administrators and their staffs by the increase in conciliation, social and counselling duties are heavy. They highlight the need for uniform office procedures so that uniform service, and more importantly, maximum service, can be offered to the public throughout the province.

Management Training

An organization employing in excess of 1600 people demands high standards of management. With this in mind, the management training

program was greatly expanded. The following numbers of personnel attended the Management Workshop sponsored by this Ministry in co-operation with Sheridan College:

Court Administrators	87
O/D Home Superintendents	5

As well, the following numbers of personnel attended workshops, seminars and/or courses approved by the Civil Service Commission:

Management Development

Women Into Management	1
Management Workshop	9
Performance Appraisal	1
Management by Objectives	2
Problem Employee Seminar	4
Long Range Planning Seminar	1
Senior Management Seminar	1

Communication Skills

Communication Workshop	6
Transactional Analysis in the Work Setting	2
Support Staff Seminar	12
Public Speaking Workshop	1

Problem Solving and Decision Making

Kepner-Trezoc Government Management Seminar on Problem Solving and Decision Making	1
Creative Problem Solving	1
Life Work Planning	1

A total of 135 attended various courses.

The Central West Courts Administration Project

In the last Annual Report it was noted that the Attorney General's Advisory Committee comprised of F.W. Callaghan, Q.C., The Honourable Mr. Justice T.P. Callon, Supreme Court of Ontario, His Honour Chief Judge W.E.C. Colter, County and District Courts, His Honour Judge J.L. Roberts, Provincial Court (Criminal Division),

His Honour Judge J.E. Van Duzer, Provincial Court (Family Division), W. Morris, Q.C., and J.R. Barr, Q.C., had recommended to the Attorney General that caseload management should be the responsibility of the Judiciary.

Caseload management, of course, is the key factor in the allocation and utilization of resources, both human and physical, and in the ability of the court system to deal effectively and in a timely manner with the cases coming before it.

It was this consideration, among others, which led to the preparation and publication of the White Paper on Courts Administration in October of 1976.

Under the Administration of Courts Project Act, 1975, the legislative aspect of the project will be automatically repealed July 31, 1977. Until that date the Attorney General's Advisory Committee will continue to advise the Attorney General on matters relating to courts administration.

The Management Team, which has been acting as a regional administrator, will at that time be disbanded and the future role and function of courts administration will be considered in the context of initiatives arising from the White Paper and related proposals on caseload management.

Court Reporting and Appointments

Ron Schurman,
Co-ordinator

Court Reporting

The Co-ordinator develops and implements policies for court reporting services in all levels of courts in the province, as well as in certain boards, commissions and tribunals. He maintains a continuing review of the court reporting function to ensure equitable and uniform practice throughout the province.

The Co-ordinator also provides direction and support to the offices of the Special Examiners in Toronto, Hamilton, Ottawa, Windsor, St. Catharines, and Timmins.

A new tariff covering Special Examinations was approved by the Rules Committee of the Supreme Court and became effective February 1, 1977. The new tariff will provide the Special Examiners with the incentive to continue their important role within the court structure.

The Ministry of the Attorney General

Methods of Reporting

There are approximately 380 full-time court reporters and 125 hired on a freelance basis. Shorthand and Stenomask reporters continue to supply the backbone of reporting services, although the electronic recording of proceedings is under constant review by the Ministry.

Upon the completion of the new Barrie Court House, in the fall of 1976, Ontario's first totally electronic reporting system went into action.

Proceedings are recorded on a master tape which serves as the archival record of the courts while reporting staff produces a record for the production of transcripts.

Similar systems to the one in operation in Barrie, are planned for locations in Hamilton, Ottawa, London, Windsor and Brampton, and should be fully operative during 1977.

Under the guidance of the Chief Justice of Ontario, an experiment was undertaken with Computer Assisted transcript production. Certain machine shorthand writers (Stenotypists) have been working with the experiment, which feeds the reporters' shorthand symbols into a computer, which in turn translates these symbols into written language. Further development of the system is expected.

Training programs have been started to increase the supply of new reporters, and new standards set to assure a continuing high quality of reporting skills. A new transcript format was introduced to ensure page uniformity across the province and to permit greater scrutiny of transcript quality.

With the advent of Justice of the Peace Courts, demand on court reporters' time has greatly increased, leading to the installation of electronic recorders operated by monitors.

Appointments

The Co-ordinator assumes responsibility, delegated by the Inspector of Legal Offices, for all Justices of the Peace in the province. This involves receiving and evaluating requests for appointments, maintaining and updating records of over 600 Justices of the Peace and monitoring and developing training programs. He investigates inquiries and complaints concerning Justices of the Peace. He is also responsible for

the development and administration of policies concerning the appointment of Commissioners for Taking Affidavits, and Notaries Public.

A brief has been prepared regarding the non-judicial use of affidavits, in the hope that the requirement for sworn affidavits in commercial transactions can be greatly reduced or eliminated, allowing for greater protection of the public.

Courts and Office Accommodation Planning

Bill Thomson,
Administrator

Accommodation

The Ministry has actively pursued its program of providing necessary additional court facilities while upgrading and expanding existing court and office accommodation throughout the province.

Projects Completed

The Barrie Court House provided four County Courtrooms, three Provincial Court (Criminal Division) Courtrooms and two Provincial Court (Family Division) Courtrooms as well as increased administrative support areas and modern holding facilities.

New leased premises were provided for the Crown Attorneys' offices in Kapuskasing, Timmins and Pembroke to accommodate increased professional staff. New leased premises were also provided in Wikwemikong for the Provincial Courts, both Criminal and Family Divisions. Additional interim space was provided for the Provincial Court (Criminal Division) in Guelph. The Kingston Provincial Court (Family Division) was relocated to more suitable accommodation and provided with an additional courtroom.

Improvements were completed at the Old City Hall in Toronto, Provincial Court (Criminal Division), which provided a modern ground floor administration area as well as additional courts and ancillary services.

Alterations were completed at the Ottawa Provincial Court (Family Division) to add an additional courtroom and support services.



The Ministry is continuing to improve court facilities throughout the province. A new Court House was opened in 1977 in Kitchener, as pictured below. It contains eight courtrooms, including the one pictured above, as well as offices for Judges, Crown Attorneys and courts administration staff.



The Ministry of the Attorney General

A special courtroom was provided at 801 Bay St., Toronto, for the Provincial Court (Criminal Division).

Other alterations and renovations were completed in Cornwall for both the County Court and the Provincial Court (Family Division); Brantford, County Court House; Brampton Provincial Court (Criminal Division); Parry Sound, Provincial Court (Criminal Division); Ottawa, both at the County Court House and at the Provincial Court (Criminal Division); and in Toronto at the County Court House, Provincial Courts (Criminal Division) and Provincial Courts (Family Division). The Port Hope Provincial Court (Criminal Division) Administrative offices were relocated to new leased premises in Cobourg.

Under the Capital Program, Land Acquisition, a site was purchased in Etobicoke for the construction of a new Court House.

Projects Under Construction

- The Kitchener Court House and Registry Office which will accommodate Provincial Courts (Criminal Division) and Provincial Courts (Family Division), was scheduled for completion in mid 1977.
- Brampton Registry Office, which will provide expansion space for the Peel County Sheriff, Crown Attorney, two Provincial Court (Family Division) Courtrooms and the Family Court Chief Judge's offices.
- A new consolidated government building in Dryden housing Provincial Courts offices previously located in leased premises and a courtroom relocated from the local O.P.P. detachment.

Projects in Contract Stage

- Completion of unfinished courtrooms in Cayuga, London and Whitby County Court Houses.
- The conversion of a former O.P.P. detachment in Fort Erie to a Provincial Court (Criminal Division) including one courtroom, Judge's and Crown Attorney's offices, waiting and interview rooms.
- Renovations to the Hamilton Provincial Court (Criminal Division) to provide additional courtrooms and ancillary services.

Projects in Planning Stage

- Consolidated court buildings in Scarborough, North York, Etobicoke, Newmarket, Ottawa, St. Catharines, Whitby, Sudbury, North Bay, Brockville, Hamilton, Lindsay and Toronto.
- Interim consolidation of Provincial court facilities in Scarborough, North York, York and Etobicoke to provide better service construction of court buildings.
- Provision of new leased accommodation for Provincial Courts in Brampton, Hamilton, Orillia, Ottawa, Oakville/Burlington, Belleville, Cobourg, Guelph, Richmond Hill, Geraldton and Sudbury.
- Major renovations to 145 Queen Street, York County Court House, 18 King Street East and Hamilton County Court House.
- Provision of additional space for additional courtrooms and support services to accommodate the Hamilton Unified Family Court.
- New permanent accommodation to house Royal Commissions.

Management Information System

Dorothy J. Bryson,
Co-ordinator

Criminal and Minor Offences

The Criminal Information System has remained operational in eleven counties in Central West Region and Durham. During 1976, the system was converted from the Univac 1106 to an IBM 370-168. For ease of reporting, the system was modified to make greater use of System 2000, a data base management system.

The Minor Offence Information System has continued to operate in one county in the Central West Region. This system was converted to run on the IBM 370-168 during 1976 as well. The original data entry equipment used by the two systems has been upgraded to provide key to disc capability.

The systems have been altered during the year to increase speed and effectiveness. Special requests have increased and greater use is being made of the data base for production of ad hoc reports.

Statistics

There have been major modifications in the reports being produced. Modifications have

been introduced in forms for the Supreme, County and Surrogate Courts and the Provincial Court (Criminal Division). The Annual Report of Court Statistics for 1975/76 was produced. In this report, three-year comparative data were provided for courts in Ontario. New summarization techniques, using data entry equipment, were introduced for the daily returns from the Provincial Court (Criminal Division). This move towards automating the manual procedures of the office was undertaken in order to improve the production schedule for reports produced by area.

Special Reports

In co-operation with the Provincial Secretariat of Justice and other ministries, an extensive study was undertaken on juveniles dealt with by the courts in Ontario. The intention of the study was to estimate the impact of federal legislation proposed to replace the Juvenile Delinquents Act.

Assistance was provided to the federal Department of Justice in its study of the impact of changes in the bail procedures in Canada. The Co-ordinator of Management Information System aided the Department of Justice in developing the methodology and co-ordinating the research effort undertaken in Toronto.

During 1976-77 a pilot study was introduced into Toronto for collection of information on Small Claims Courts. Once the system has been tested in Toronto, and necessary modifications made, it will be implemented in other Small Claims Courts.

Work has begun on the development of a statistical system for the Women's Advisory Committee. The system will provide continuing analysis of information on the status of women within the Ministry.

Committee on Appellate Courts

At the request of Mr. Justice Kelly, an analysis of court activity in Ontario was undertaken for the period 1971 to 1975. In addition, a methodology for analyzing the questionnaire on appellate courts was developed. The questionnaires from the law profession were analyzed under the supervision of Management Information System.

The Ministry of the Attorney General

Provincial Court (Criminal Division)

Chief Judge F.C. Hayes

Court Sittings

There was a continued increase in activity in the Provincial Court (Criminal Division) during this fiscal year which may be attributed to an increase in the caseload and a change in the nature of the caseload.

In order to cope with this increasing activity and in order to attempt to maintain a reasonable period from the date of offence to the final disposition of the matter, it is necessary to maximize the use of available judicial personnel, facilities, and time, and some of the procedures which are being utilized are as follows:

- Continual assessment of the caseload by Senior Judges and the office of the Chief Judge followed by relevant revisions to court sittings and Judge's assignments;
- Institution of specialized rather than general court lists;
- Review by the Chief Judge's office, with the co-operation of the Senior Judges, of court sittings in heavy caseload areas and re-allocation of judicial resources to make more sitting days available for relief work, lengthy trials or preliminary hearings;
- Increased use of Justices of the Peace in all areas for the trial of minor liquor and traffic offences and for the adjournment and remand of some criminal matters;
- A recommendation to the Ministry for an increase in the number of judicial personnel based on locating the additional personnel in central locations so as to provide assistance to adjoining areas.

The Chief Judge's office is developing a program to obtain some uniformity in the time between the laying of the Information and the return date for the accused to appear. Uniform forms of direction are being developed and will be forwarded to law enforcement agencies and Justices of the Peace indicating the periods within which the process of the courts must be made returnable.

Despite improvements in scheduling procedures and the use of Justices of the Peace, the grow-

ing caseload and the shortage of Judges and Justices of the Peace in some areas have caused difficulty in providing adequate sittings of the courts when Judges are absent because of illness, vacation, or on special assignments for the trial or preliminary hearing of lengthy cases.

The statistical analysis representing the increased caseload is only a partial assessment of the problem. There has been a very discernible change in the nature of the caseload in that there are many lengthy criminal prosecutions, be they trials or preliminary hearings, and this has been reflected in the special assignment of Judges to various areas of the province to deal with matters which could not be accommodated in the ordinary court list.

In Metropolitan Toronto, the number of courtroom days allocated to special criminal prosecutions (that is, cases occupying one day or more) increased from 683 in 1975-76 to 757 in 1976-77, an increase of approximately 10 per cent, Federal prosecutions for special matters accounted for 167 courtroom days in 1975-76. Special federal prosecutions in Metropolitan Toronto in 1976-77 accounted for 270 courtroom days, being an increase of 61 per cent. The movement of Judges from Metropolitan Toronto to other areas for special relief increased from 185 Judge days in 1975-76 to 263 days in 1976-77, an increase of approximately 42 per cent.

An increasing demand for the Court to attend in remote communities in Northwestern and Northeastern Ontario continued to be met in most instances by scheduling special sittings. Visits have been made to many remote communities in Northwestern and Northeastern Ontario either by the Chief Judge or by another Provincial Judge, usually in the company of the Crown Attorney, Duty Counsel, a representative of the Ontario Provincial Police, and in some cases, an Indian Court Worker.

The Ontario Provincial Police are policing approximately 22 reserves in Northwestern Ontario and an increasing number of reserves in Northeastern Ontario. This level of law enforcement has led to a greater number of charges and we have been unable to respond to all of the demands for additional sittings in various areas of Northwestern Ontario. Some of the court locations have been re-assigned to other Judges

but this will not entirely serve the needs of the area. There has been a substantial increase in mine development in Northwestern Ontario resulting in increased population and a consequent increase in the demand for court services.

North York Traffic Tribunal

The North York Traffic Tribunal, which was outlined in previous Annual Reports, has been operated with a continuing high level of acceptance by members of the public. The informal nature of the hearings, the extended hours of operation, and the operation of the Driver Improvement Centre have all contributed to this continued public acceptance.

One of the original purposes of the tribunal concept — to reduce the ordinary adversary process which is present in the prosecution of criminal charges — was accomplished by the withdrawal of the prosecutor from the trial of less serious traffic charges.

The tribunal concept has been extended to include cases involving accidents and/or personal injury where a licence suspension is not a possible part of the penalty.

(See Background Paper on the Tribunal).

Effect of the Ontario Legal Aid Plan

While the Ontario Legal Aid Plan greatly aids accused persons, it has increased the potential for delay in the administration of justice.

In some areas, including Metropolitan Toronto, part of the operation of the Plan has been relocated in the Provincial Court Building. This improves the Plan's early contact with accused persons, thereby facilitating an early decision by the Legal Aid Office as to whether or not an accused will be granted a certificate under the Plan.

The introduction at Old City Hall in Toronto of the pilot project with respect to full-time duty counsel would seem at the present stage of its development to be providing considerable assistance to the courts.

Court Visitations

During the past year, the Chief Judge visited a number of the areas of the province and met with Provincial Judges and their staff. The Chief Judge also met with the nine Senior Judges,

discussed problems in their particular areas, and distributed papers on various legal topics to be used for their Area Senior Judges' meetings.

Area Senior Judges continued to hold regional meetings to discuss legal matters and to consider scheduling procedures, uniformity of sentencing and other matters with the Judges in the area. The Chief Judge attended these meetings wherever possible.

Judicial Education

The office of the Chief Judge reviewed judgments of the Court of Appeal and law reports and circulated matters of interest to the Judges. The Law Clerk assigned to the staff of this office assisted in preparing appropriate annotations for recently reported judgments and in carrying out research in areas of criminal law relevant to the Provincial Court (Criminal Division), including rendering assistance to Judges in their preparation of judgments.

The Judges University Education Program was held at the University of Western Ontario. This program permits a Judge, once every three years, to live for one week in a university setting and participate in a program consisting of lectures, discussions, and videotapes.

The Provincial Judges Association (Criminal Division) carries on an active education program composed of regional sentencing seminars and central education seminars.

To assist Judges in the sentencing process, the Provincial Judges Association and this office, with the co-operation of the Chief Justice of Ontario and the members of the Court of Appeal, continued the program in which Provincial Court Judges spend three days in Toronto observing the argument of criminal appeals and discussing sentencing problems with members of the Court.

Justices of the Peace Education Program

The Justices of the Peace Continuing Education Program completed its fourth year of operation as of March 31, 1977. As part of this program, each active Justice of the Peace received papers on various topics; a Justices' of the Peace

The Ministry of the Attorney General

Handbook containing selected statutes and a copy of the Criminal Code.

The program for this fiscal year was carried on over a period of three days at each of ten locations throughout the province.

In addition, efforts are made to keep the Justices of the Peace informed, through the Senior Judges, of relevant amendments to legislation.

Statistics

The 1975-76 Court Statistics Annual Report indicates that for the area outside Metropolitan Toronto, the number of new charges in the system under all statutes rose from 1,531,748 in

1974-75 to 1,584,748 in 1975-76. As of the end of December, 1976, the number of new charges received under all statutes was 1,244,182 with one more quarter remaining in the fiscal year.

In Metropolitan Toronto, notwithstanding the problems with available facilities and the change in the nature of the caseload, there were 89,000 Criminal Code dispositions in 1976-77 compared with 85,288 in 1975-76, an increase of 4.35 per cent.

In Metropolitan Toronto, minor traffic dispositions rose from 1,174,163 in 1975-76 to 1,456,502 in 1976-77, an increase of 24.04 per cent.

Judicial Appointments

	1972	1973	1974	1975	As of Mar. 31 1976	As of Mar. 31 1977
Provincial Judges in Ontario (Criminal Division)						
Number of Full-time Judges as of December 31	107	108	118	117	117	128
Number of Judges Retired or Deceased or on L.T.I.P.	7	7	5	6	6	5
Number of Judges Appointed	7	7	15	5	7	15
Number of Part-time Judges	2	2	2	2	2	2
Number of Judges on Extension	4	5	5	6	6	4

As of January, 1976, fourteen of the above Judges were also presiding in the Family Division.

Provincial Judges in Metropolitan Toronto

Number of Full-time Judges, including Chief Judge, as of December 31	22	23	28	29	28	36
Number of Judges, Retired, Deceased or Resigned	2	0	0	0	1	0
Number of Judges Appointed	1	1	5	1	1	8
Number of Judges on Extension	2	2	2	1	2	1

The above shows only Metropolitan Toronto. To calculate figures for the Judicial District of York, it will be necessary to add one full-time Judge — Judge R.G. Pearse, and to show one resignation — Judge C.W. Morrison in 1975.

General

Substantial emphasis is and will continue to be placed on implementing programs of pretrial disclosure in criminal matters. It is hoped by this pretrial disclosure process, which is initially being operated in Ottawa, that the time spent with trials and/or preliminary hearings will be reduced.

If staff and facilities are available, it is hoped to have some pilot projects whereby the majority of uncontested adjournments would take place outside the courtroom before a Justice of the Peace at any time during regular business hours prior to the next date set for the appearance of the accused in the courtroom. If this can be accomplished, it should relieve the courtroom facilities of a substantial number of repetitive procedures, and if accused persons wish to co-operate, they would be able to attend at some time during regular business hours and avoid losing an entire day's work.

Some of the benefits which should be derived from the above procedures are:

- More courtroom hours available;
- Better use of staff and facilities;
- Reduction in the number of witnesses required to attend to give evidence.

Coupled with the adjournments on consent before a Justice of the Peace would be a system of caseload control whereby counsel for the accused, after meeting with the Crown Attorney, would be able to indicate to the caseload control centre his available dates for trial. If the witnesses are available and the date suggested by counsel is within the guidelines indicated by the Judge, a date would be allocated by the control centre and the accused could then attend as indicated above to have his case adjourned to that date.

Provincial Court (Family Division)

Chief Judge H.T.G. Andrews

The Family Courts administer those branches of federal and provincial legislation designed to ameliorate family breakdowns and process matters concerning children who are in conflict with the law. The special nature of their functions

makes it necessary for them to provide a range of integrated social and legal services unique in the Provincial Court structure.

Judicial Complement

As of March 31st, 1977 complement stood at:

A. Full-Time Judges	48
B. Judges shared with Criminal Division	12
C. Per Diem Judges	9
Total	69

Education

All staff members were involved with programs in three areas during this period: Judicial, Administrative and subsidiary staff training.

Due to budgetary restraints, the continuing education programs for Judges were curtailed during the fiscal year. Participation in the October and November seminars usually held at Queen's University was restricted to newly appointed Judges.

The Family Court Judges' Association Seminar in May focused on the proposed new young offenders legislation. This was a joint meeting with the Canadian Council of Juvenile and Family Court Judges. The September Seminar concerned itself with the proposals for provincial family law reforms.

Between October 17 and 22, 1976, twenty-six Court Administrators attended a training program in Toronto on the Juvenile Delinquents Act. Each participant was given a basic text in the form of a workbook which had been prepared by the Chief Judge's staff.

In January, 1977, a submission on the cost of future Administrators' training programs was prepared for the Ministry.

As a result of a request made to Chief Judge Hayes with respect to the inclusion of a Family Court component in the J.P. training program, eight of our Administrators participated in nine programs throughout February and March of 1977.

At the request of the Director of the Toronto Court Conciliation Project, the Chief Judge's Law Clerk and Executive Assistant conducted two training programs in October on The Deserted Wives' and Children's Maintenance Act for the recently appointed staff members.

The Ministry of the Attorney General

In October 1976, the Office of the Chief Judge launched a case abstract service primarily for the benefit of Family Court Judges, although there has been some interest in the service in other provinces. Judges who deliver reasons for judgment send them to the office where the Law Clerk summarizes and classifies them, occasionally adding editorial comment. These summaries or abstracts are then circulated to all Judges. Judges are thereby kept abreast of precedent being set by their colleagues, hopefully with a view to some uniformity of practice.

Reports

The staff researched and prepared reports on the following subjects:

- Analysis of maintenance monies, arrears and active accounts : 1972-1976.
- Study of comparative time-lapses for persons on first entry into Court System.
- Caseload analysis of Family Division Courts.
- Report to the Minister of Community and Social Services on the current status of the Parental Support Program and recommendations for provincial expansion including a mediation component.
- Report on the availability of community resources as an alternative to training school committals under Section 8 of the Training Schools Act.
- Costing survey of expenses for judicial training programs.
- Costing survey of expenses for Court Administrators' Training Programs.
- Study, recommendations and review reference division of province for appointment of Senior Judges.
- Study of the advisability of centralized staffing for Family Court Offices.
- Automatic enforcement report on the Judicial District of York.

Research was completed for the following reports during the fiscal year:

- 50 Families.

A five year study of the case histories of 50 maintenance orders in the Family Courts.

- The Detention Home Report.

To be completed in August, 1977.

- Third status report on Automatic Enforcement.

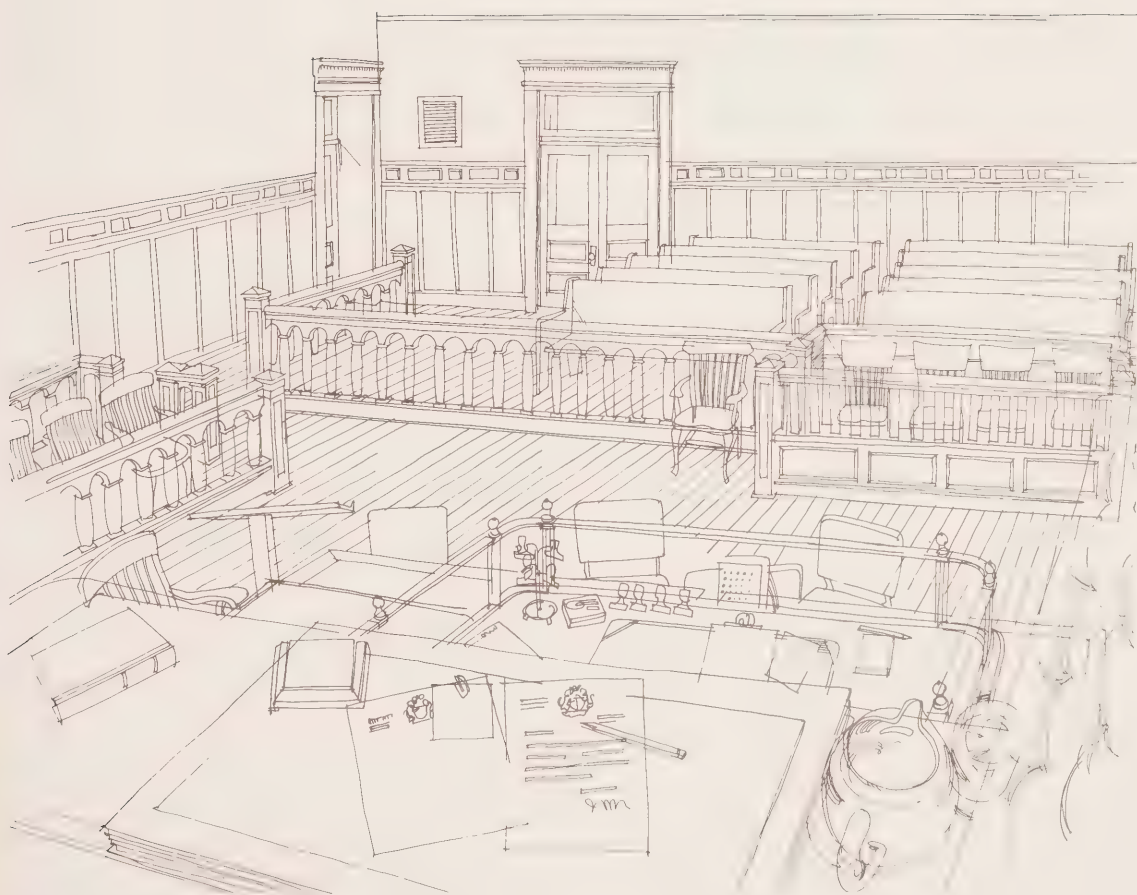
The Chief Judge's Office continued to:

- Update and circulate 500 copies of the Directory of Provincial Judges and Provincial Courts (Family Division). The Directory was completely revised once during the year and four amendments in the form of memoranda or supplementary revision pages were also provided to users.
- The Courts were surveyed twice in order to maintain the current roster of casual staff.
- Maintain statistical trend sheets on each of the 55 Court offices.
- Update the Maintenance Assessment Form twice during the year. Circulation now stands at 3,500 copies per issue.
- Print and circulate six issues of the Quill and Wig.
- Investigate complaints — 25 this year. Almost all concerned problems of enforcement.
- Process judicial mailings. Seventeen mailings consisted of 71 separate memoranda and reports.
- Prepare and process Court Administrators' mailings. Ten mailings comprising 11 separate memoranda and reports were circulated.
- Provide material to each of the new Judges. Each receives a Statute Binder, Directory of Provincial Judges and Courts (Family Division), Case Summary Notebook and selected material taken from mailings to the judiciary over the past few years.
- Monitor Court accommodation requirements through the blueprint stage.

Student Employment

The office surveyed the Courts with respect to their desire for summer student assistance. Allocation of students was made on the basis of their submissions. More than 4,012 applications were received and processed by the office for the 55 positions available.

Six law students were employed during the summer of 1976 and were occupied with legal research for the Courts.



The Ministry of the Attorney General

Crown Law Office

F.J. Greenwood, Q.C.,
Assistant Deputy Attorney General
Criminal Law

Crown Law Office — Criminal
R.M. McLeod,
Director

Composition

In the year under review the complement of the Branch was increased from 17 to 20 lawyers, all specialists in the field of criminal law, whose principal function is to represent and advise the Crown at both trial and appellate levels in criminal litigation.

Main Activity

The Branch's principal activity continued to be appearances in the Supreme Court of Ontario on behalf of the Crown on criminal appeals and motions in respect of both indictable and summary conviction offences. Appeals to the Ontario Court of Appeal in relation to indictable matters constituted the major portion of the workload of counsel as a result of the increased volume of such appeals, their complexity and the increased frequency of Court Sittings.

Other Court Appearances

Court appearances by lawyers in the Branch also encompass diverse matters involving various provisions of the Criminal Code of Canada.

Appearances on judicial interim release hearings in murder cases, pre-trial judicial interim release review hearings, release pending appeal applications and contested motions and summary conviction appeals in Weekly Court and Chambers necessitate daily attendances in the Supreme Court of Ontario. Weekly Court and Chamber matters also include mandamus, prohibition, certiorari and habeas corpus applications and Juvenile Delinquent Act appeals.

Applications for leave to appeal and appeals in the Supreme Court of Canada are heard every two weeks. When applications are granted, more lengthy subsequent appearances are required for the hearing of the appeal.

The increased incidence of applications for judicial interim releases and bail reviews, in spite of procedural adjustments to standardize court dates for the latter, necessitates daily appearances of at least two lawyers to ensure that the Crown's case is properly advanced and dangerous offenders are not at liberty prior to their trial.

Special Prosecution

In this area the workload has continued to increase primarily in respect of complicated commercial transactions involving allegations of fraud, corruption and conspiracy. Liaison with the fraud squad of the Metropolitan Toronto Police, the Ontario Provincial Police and the R.C.M.P. has become an important feature of the Branch's activities in order to provide the specialized prosecutorial assistance needed not only at a trial level, but also from the outset of the investigation in most cases.

Increased Volume of Appeals

In this past year the Court of Appeal sat, on average, four weeks per month, except in the summer recess period, in order to keep abreast with the caseload. During a number of months additional courts were held in at least part of the month. Procedural changes by the Court of Appeal aimed at expediting appeals, particularly against sentence, placed a heavy workload on counsel. Counsel responded to these challenges and at the end of the fiscal year the number of outstanding appeals by both accused persons and the Crown had not increased. At the same time, internal administrative procedures were amended to improve liaison with the Crown Attorneys' system and improve the exchange of information relevant to the effective prosecution of appeals.

Other Activities

This Branch also handles various administrative matters in the criminal justice field including transfer of charges under the Criminal Code, transfer of probation orders, reciprocal enforcement of maintenance orders, the Criminal Records Act and the Lord's Day Act. Another time-consuming responsibility is the administration of the Protection of Privacy Act in reference to wiretap authorizations. Advice and assistance — involving the preparation of formal

opinions, service on indepartmental committees or the provision of informal expert opinion — to other government departments, local Crown Attorneys and others involved in the administration of justice in Ontario on an “on call” basis constitutes an important part of the Branch’s workload.

Crown Attorneys System

History

Originally, prosecuting authority rested with the Attorney General and his officers at the capital of Upper Canada. As the population grew and spread out, it became increasingly difficult to do this job from one central office. In 1857 authority was granted for the creation of a prosecution office in each county of the province. Each office was directed by a Crown Attorney appointed by the Governor. The Crown Attorney was required to be a resident of the county and, as such, was part of the local administration of justice which included a sheriff and jury made up of residents of the area.

Modernization has strengthened the relationship between the Crown Attorney with his local responsibilities, and the Attorney General, who is responsible for the administration of justice throughout the province. In 1955 the office of Director of Public Prosecutions was formed to co-ordinate the activities of the local Crown Attorneys at large, to act as special prosecutors in difficult or specialized cases. The desire for better communication in the system gave rise, in 1966, to the Crown Attorneys’ Association, a group of Crown Attorneys and their assistants who meet voluntarily to discuss common problems, to conduct seminars in order to keep pace with changes in the law, and promote an interchange of personnel in the event of temporary absences or busy trial schedules.

Composition Today

The Division is made up of 183 lawyers who specialize in criminal law. In Toronto the office of the Director of Regional Crown Attorneys consists of the Director, the Deputy Director, and a Counsel. There are nine Regional Crown Attorneys, each of whom is also the Crown

Attorney in his local area, and 48 Crown Attorneys in offices throughout Ontario. The largest local office is in the Judicial District of York, where the Crown Attorney is aided by four deputies, a senior advisory assistant, and 48 assistant Crown Attorneys. The other offices have staffs of lawyers ranging from one to ten. In addition, there are five Crown Counsel assigned from time to time by the Director to local offices requiring temporary help. Finally, the Crown Attorneys in the division supervise part-time assistants — local lawyers engaged on a daily basis.

Responsibilities

The Crown Attorney’s System is responsible for the conduct in Ontario of prosecutions under the Criminal Code and other federal statutes such as The Lord’s Day Act and The Juvenile Delinquents Act. From time to time Crown Attorneys also conduct prosecutions under such provincial statutes as The Highway Traffic Act and The Liquor Licence Act.

Crown Attorneys and their Assistants exercise the Attorney General’s discretionary powers with respect to prosecutions as well as choosing the appropriate charges, considering the release of prisoners pending trial, and conducting the trials. Crown Attorneys also supervise private prosecutions and intervene if the interests of the community require it.

Regional Program

In 1976 the Attorney General designated nine Crown Attorneys as Regional Crown Attorneys, the local representatives of the Director. This program enables the Regional Crown Attorney to bring matters of local concern to the attention of the Director, to confer with other Crown Attorneys in his region, and to attend regular meetings in Toronto with the Director, the Deputy Director and occasionally with the Deputy Attorney General and the Attorney General. This program, apart from assisting in the exchange of information and solving the problem of occasional manpower shortages, has contributed significantly to the further promotion of the uniformity of services through policy directives. The regional program has strengthened the principle of a uniform administration of justice without undermining the significant contribution that local Crown Attorneys have made and will continue to make.

The Ministry of the Attorney General

Decentralization

This year the Attorney General established a program to expand and decentralize Provincial Court facilities in Metropolitan Toronto in order to speed up the judicial process by avoiding unnecessary delays and to bring the court system closer to the people. New court facilities are being set up in Etobicoke, North York and Scarborough, involving the placement of 246 people, including judges, Crown Attorneys and staff. Some of the staff vacancies in the new Crown Attorneys' offices will be filled by the existing staff of the York Crown Attorney's office. A deputy Crown Attorney has been appointed in each of these boroughs to direct the work of the assistant Crown Attorneys assigned to his jurisdiction.

The decentralization program will lessen pressure in the Provincial Courts (Criminal Division) at Toronto's Old City Hall, where there has been an extraordinary increase in the caseload. The growing caseload and the nature of the existing facilities meant that certain types of cases were moved from one court location to another, but this program will enable most cases to be heard in the area in which they arise.

Disclosure

The Attorney General instituted, through the regional Crown Attorneys, a system of pre-trial disclosure to help overcome the problem of pre-trial delays. This program is an example of the contribution that the system of regional Crown Attorneys is making to the administration of justice.

Crown Attorneys in Ontario were directed to begin the disclosure system on May 1, 1977. The guidelines issued were designed to reduce the length of preliminary hearings but still retain the right of both the Crown and the defence to full examination-in-chief and cross-examination at a preliminary hearing in appropriate cases. In most instances this system provides greater disclosure for the defence than ordinarily could be achieved even after a full preliminary hearing. The system does not require the intervention of the court at the Provincial Court level, but it is intended to increase the effectiveness of any pre-trial conference which the trial courts may conduct.

At the start the program will be a limited one, covering all offences in which the maximum penalty is life imprisonment, except for the offence of breaking and entering a dwelling house. It is hoped that the program, which will be monitored by means of a disclosure report for at least six months, can be expanded to cover other offences and that the monitoring can be reduced or eliminated.

French Language Court Services

The Attorney General has informed the Legislature of his intention to continue the expansion of French language services. As a result of a developmental project begun in the Provincial Courts (Criminal Division) in Sudbury, French language services have become permanent in these courts there. French language courts were to become available on June 6, 1977, in the Judicial District of Carleton at Ottawa and in the United Counties of Prescott and Russell at L'Orignal. This service will be extended to Kapuskasing, Hearst, Smooth Rock Falls, Cochrane and Hornepayne in October, 1977. With this program in effect, French language court services will be available to about two-thirds of the Ontario citizens who speak French only. In addition, court services in French will be available to about 35 per cent of the province's citizens who speak both French and English. Further expansion of the program at all levels of the courts is planned.

French language instruction has been provided to the Ottawa Crown Attorney's office since February, 1977, and will continue until September, 1977. As a result of this program, two assistant Crown Attorneys in Ottawa have been able to conduct prosecutions in French.

The Attorney General has established a Task Force within the Ministry to explore further the legal and administrative issues involved in expanding French language services in Ontario courts.

Civil Litigation and Legal Advisory Services

Blenus Wright,
Assistant Deputy Attorney General

The Assistant Deputy Attorney General is responsible for the operation of the Crown Law Office — Civil Law. He is also in charge of liaison between the Ministry and the Ontario Municipal Board and he deals with conflict of interest. He is the Attorney General's representative on the Rules Committee of the Supreme and County Court, the Civil Procedure Revision Committee and the Law Foundation of Ontario.

There was a significant change in the organization of the Crown Law Office — Civil Law — in December, 1976. Because of the increase and importance of constitutional issues, the office was divided into two branches — Constitutional Law and Civil Law.

Constitutional Law

D.W. Mundell, Q.C.,
Director

The branch consists of four lawyers including the director. During the year important constitutional cases in the Supreme Court of Canada included the following:

Reference re Anti-Inflation Legislation

The issues in this case were the validity of the federal anti-inflation legislation and the authority for Ontario's agreement with the Federal Government to apply the legislation to the public sector in the province. The legislation was held valid but the agreement was held to be unauthorized. Following the decision, validating provincial legislation was prepared with the advice of the branch.

Union Oil Co. v. The Queen

The Supreme Court decided that the Federal Court of Canada has no jurisdiction over claims against the Crown in right of a province.

MacNamara Construction v. The Queen

The Supreme Court reaffirmed the proposition

that the Federal Court of Canada has no jurisdiction over claims between subject and subject.

Capital Cities Communication v. C.R.T.C.

The constitutional validity of federal legislation regulating television programs carried on cable systems contained wholly within a province was contested. Judgment reserved.

Robinson v. Countrywide Factors Ltd.

The Saskatchewan Fraudulent Preferences Act was held valid and operative. Ontario has similar legislation and intervened to support the Saskatchewan statute.

Tomell Investments Ltd. v. East Marstock Lands Ltd.

The authority of Parliament to legislate to control the payment of bonuses in addition to interest under mortgages was challenged. Parliament was held to have authority.

Attorney General for Quebec v. Kellogg Company of Canada

The validity of Quebec legislation restricting cartoon advertising on television shows for children was challenged. The case has been argued and judgment reserved.

Simpsons-Sears v. Provincial Secretary for New Brunswick

The extent to which the value of catalogues distributed without charge in New Brunswick is subject to consumption tax by the distributor in New Brunswick was at issue. Judgment reserved.

Reference re Ontario Farm Products Marketing Board et al

The Ontario Court of Appeal ruled that federal and provincial legislation regarding egg marketing was valid. This decision was appealed to the Supreme Court of Canada. The case has been argued and judgment reserved.

Nova Scotia Board of Censors v. McNeil

The validity of provincial legislation authorizing the censorship of films was attacked. Judgment reserved.

Attorney General for Quebec v. Belanger

The validity of Quebec legislation regulating cable television systems was challenged. The case has been argued and judgment reserved.

In addition to the foregoing cases in the

The Ministry of the Attorney General

Supreme Court of Canada, important constitutional questions were raised in the Provincial Courts:

Hamilton Harbour Commissioners v. City of Hamilton

The issue in question is the validity of city by-laws controlling use of lands which border on a harbour but are not used for harbour purposes. The trial judge held the bylaws to be valid. The case is now in the hands of the Court of Appeal.

Pickering Harbour v. Township of Pickering

The issue here is similar to the issue in the Hamilton Harbour case. These proceedings were begun but have been postponed pending a decision in the Hamilton Harbour case.

Multiple Access Ltd. v. Ontario Securities Commission

The validity of the insider trading legislation by Parliament and the Legislature is questioned.

City of Mississauga v. Regional Municipality of Peel

The jurisdiction of the Ontario Municipal Board to allocate assets between the city and the new regional municipality was attacked. The Divisional Court held that the jurisdiction was validly conferred. The case has been taken to the Court of Appeal.

R. v. Dominion Stores Ltd.

The validity of the federal Agricultural Products Marketing Act, in its application to local retail trade in the province, was at issue. A judge of the High Court held it valid. An appeal is being considered.

Donline Haulage Limited v. The Queen T.E. Quinn Truck Lines Ltd. v. The Queen

The validity and operation of provincial legislation regulating highway transport by truck has been raised in these cases.

In addition to these cases, the effect and priorities to be given to executions issued out of the Federal Court of Canada in relation to executions issued out of the Provincial Courts are at issue in a number of inter-pleader proceedings by sheriffs.

Notices of Intervention

Where an appeal to the Supreme Court of Canada from any part of this country raises a constitutional question, notice must be given to

the Attorneys General of all provinces. Each Attorney General may apply for leave to intervene in the case. All cases in which a notice is served on the Attorney General for Ontario are studied to determine whether it is in the interests of Ontario as a province to intervene. The policy of the Ontario Government is to intervene where any serious general question affecting the constitutional powers of the province is raised or where Ontario has a specific interest in the outcome of the case. Many times, after the case has been studied, the Attorney General for Ontario decides not to intervene.

Federal Legislation

It is often necessary to study the constitutional aspects of federal proposals or proposed federal legislation to help prepare a position paper for the Ontario Government in making representations to the Federal Government. The federal proposals are often long and complex, e.g. The Competition Act. The constitutional aspects of the federal legislation are considered and the Ontario view is often embodied in the position paper that is prepared. One of the lawyers in the branch usually attends meetings to consider draft position papers.

Opinions

Other ministries in the Ontario Government frequently ask the Ministry of the Attorney General for an opinion as to their constitutional powers in certain specific cases. These opinions are prepared in the constitutional-law branch.

Civil Law

Julian Polika,
Director

The branch consists of 17 lawyers, including the director, and provides an independent legal service for all ministries of the government.

Serving Other Ministries

Work done for other ministries continues to increase and become more varied. Both the Bar and the Bench recognize the nature and quality of the legal services performed by this branch because of the courtroom experience of its legal officers.

Branch work involved appearances on behalf of the government in civil litigation in Small Claims Court, in the County, Supreme and Federal Court trial divisions, and in appeals and applications before the Divisional Court, Court of Appeal for Ontario, Federal Court of Appeal and Supreme Court of Canada.

Cases ranged from simple damage actions arising out of motor vehicle accidents to complex questions of law. As a result of the continual increase in expertise of counsel within the office, less legal work than ever before has been referred to outside counsel. A further decrease in the number of cases referred outside is expected.

Judicial Review

Under The Judicial Review Procedure Act, the Attorney General is entitled to be heard in person or by counsel in all matters of judicial review.

By statute, all applications for judicial review must be served upon this branch. They are then examined to determine whether an intervention will be made on behalf of the Attorney General. Interventions usually occur when the interpretation of a provincial statute becomes a problem and when such interpretation will affect more than one case or future provincial action.

In many applications for judicial review, the ministry responsible for a tribunal, the tribunal itself, or a provincial official may be a party to such application. In those cases as well as the cases in which the Attorney General intervenes, the branch argues the matters in the Divisional Court. Proposed new provincial legislation usually foreshadows a great number of applications for judicial review, and this increases the caseload of the branch.

Claims For and Against the Crown

The Crown Law Office continues to deal with many claims for and against the Crown. Pursuant to the Proceedings Against the Crown Act, a notice of claim must be served upon counsel in the branch before an action is brought against the Crown. This enables counsel to investigate the claim before an action is begun, to determine the Crown's position, and to try to decide whether a settlement is possible. These claims include a large number arising from motor vehicle accidents and relating to in-

juries or damages caused by vehicles of the Crown driven by members of the Ontario Provincial Police, the Ministry of Transportation and Communications, and all other ministries of the Government. On the other hand, Crown employees are often injured accidentally and claims are made on their behalf.

The branch handles all claims available in law except those dealing with labour law and complex technical subjects requiring expertise, such as patents or trademarks.

Boards and Tribunals

The branch provides counsel service and advice to various boards and tribunals, e.g. The Game and Fish Hearing Board, The Environmental Assessment Board, The Ontario Municipal Board, the Criminal Injuries Compensation Board.

The Ontario Human Rights Commission again sought the help of the branch, and counsel have appeared on behalf of the Commission on Boards of Inquiry ordered by the Minister to investigate particular complaints alleging breaches of The Ontario Human Rights Code.

Her Majesty's Proctor

Pursuant to The Matrimonial Causes Act, the position of Her Majesty's Proctor was created to provide an independent officer to assist the court in divorce actions and related matrimonial matters. Counsel within the branch appear regularly in respect to applications made by a spouse in a divorce action to prevent the issuance of a decree absolute. The courts as well have called directly upon the Queen's Proctor in pending matrimonial cases.

Advisory Services — providing Legal Opinions

The branch provides opinions to all ministries covering a wide variety of subjects involving interpretation of provincial statutes. These opinions may also be prepared with a view to establishing a position for a ministry in anticipation of litigation or as a result of litigation.

Legislative Advice

The branch is often involved in the preparation of legislation where a change may be required by a court judgment. This means constant liaison with the ministries affected to ensure that the legislative changes conform to judicial pronouncements and to the needs of a ministry. In

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relation to the statutes administered by the ministry, the responsible legal officer is expected to recommend necessary changes and to work with the Policy Development Division and the Legislative Counsel's Office to see that those changes are made. In the past year, for example, counsel in this branch along with counsel from the Ministry of Consumer and Commercial Relations discussed amendments to the Residential Premises Rent Review Act.

Solicitor's Work

The branch provides a full range of solicitor's services to any ministry and in particular to the Ministry of Industry and Tourism, which does not have its own legal branch.



Common Legal Services

John D. Hilton, Q.C.,
Assistant Deputy Attorney General

All Government lawyers employed by Ministry

Common Legal Services is a program to provide legal services for all Ontario Government ministries and to develop a unified approach to such things as opinions as well as pay and grading for legal services and to assist independent boards and commissions in these regards when requested. Lawyers in the 18 legal branches of the various ministries are employed by Common Legal Services on behalf of the Attorney General. This encourages independence of legal opinion within the government departments and results in consultation on points of law. Common Legal Services is also responsible for retaining outside counsel where the services of such are required by the Government. Including the offices of the Official Guardian and Public Trustee which report to the Assistant Deputy Attorney General, Common Legal Services, this program has nearly 400 professional, secretarial and clerical employees.

Professional Development

Professional development of its lawyers is a continuing objective of Common Legal Services. Educational programs offered by the Canadian Bar Association, The Law Society of Upper Canada and The Advocates Society are regularly used for updating and enlarging the legal knowledge of member lawyers. Movement of lawyers between legal branches and promotion of employees within Common Legal Services are both on the rise, creating more career opportunities for government lawyers.

Association of Civil Lawyers

As a result of an educational conference in September, 1976, The Association of Civil Lawyers working within the government has been formed to consider and deal with the common problems faced by the civil lawyers in the government. It is hoped that this will result in a greater sense of common identity, increasing the pride, productivity and quality of the government's lawyers.

Liaison with Boards

This office has a liaison responsibility between the Ministry and the Municipal Board, the Land Compensation Board, the Board of Negotiation and the Criminal Injuries Compensation Board.

Chief Inquiry Officer

This office spends much time discharging the responsibilities of the chief inquiry officer, pursuant to The Expropriations Act, involving the retainer of and the liaison with inquiry officers throughout the province and a large area of communications with the public in relation to The Expropriations Act generally.

Liaison with Official Guardian and Public Trustee

The offices of the Official Guardian and the Public Trustee also report to the Assistant Deputy Attorney General, Common Legal Services.

More time has been used in liaison with and recruiting for these offices. The increased demand for the services of the Office of the Official guardian and its agents and the organizational changes in the Office of the Public Trustee have heightened the activity in these offices substantially.

General Counsel Work

The Assistant Deputy Attorney General, Common Legal Services, is also involved in special counsel work representing the Ontario Government chiefly before the Supreme Court of Canada in some matters of constitutional importance. Three constitutional cases that were heard by that court this year involving the question of what jurisdiction is responsible for cable television were argued by this officer, as was the constitutional determination of certain aspects of the patent and trademark law. In addition to general opinions, special advice is from time to time given to various Ministries and to the Attorney General through this office.

Office of the Official Guardian

L.W. Perry, Q.C.,
Official Guardian

Function

The Official Guardian provides legal services for minors, unborn and unascertained persons, mental incompetents and absentees in accord-

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ance with the provisions of Section 107(2) of the Judicature Act.

General

The work of the office has grown from 13,643 new cases in 1972 to 17,858 in the calendar year 1976, an increase of 31 per cent in five years.

The office has a staff of 61. It also uses the services of lawyers who act as its agents throughout the province. It employs Children's Aid Societies outside Toronto and freelance social workers in Toronto to assist in investigation and preparation of reports in the increasing number of divorce and custody actions.

The Official Guardian is participating in a Family Court Conciliation Project initiated to preserve the sanctity of family life from improvident dissolution of marriages to the detriment of families in general and children in particular.

The Official Guardian is a member of a committee, headed by W.B. Williston, Q.C., which is completely revising the rules of practice of the Supreme Court of Ontario. The Official Guardian also participates in the Unified Family Court Project in Hamilton and the Parent Conciliation Project in the Family Court.

Increasing Demand

The Official Guardian tries to contribute to developments in family and child law and to meet new, related responsibilities.

The Law Reform Commissions of Canada and Ontario have strongly recommended that the law give more adequate consideration to the rights of minors in matters directly affecting them, other than the protection of their proprietary interest, which is the traditional concern of the courts. Hence, judges are appointing the Official Guardian as guardian ad litem (counsel) to represent children in custody and access proceedings. The Official Guardian is being appointed in these cases because of his traditional role in protecting the interest of minors in legal proceedings and because of his obvious independence from influence by adults.

Another matter of major concern is the adoption of children of unwed mothers whose consent to adoption is required and which is often obtained before a guardian ad litem is appointed and the minor mother has had independent legal advice. The Official Guardian has agreed,

pending clarification of this problem by statutory amendment, to provide such legal advice to unwed mothers before they consent to adoption. This important and far-reaching development will tend to curb improper placement of children by lawyers and doctors who might inadvertently or otherwise take advantage of unwed mothers to the serious detriment of the infants concerned.

Report of Operations

The statistical data for the fiscal year 1976-77 and for the calendar years 1973 through 1976 is as follows:

Surrogate Court Audits

1973	653	(increase in 1973)	24
1974	629	(decrease in 1974)	24
1975	608	(decrease in 1975)	21
1976	640	(increase in 1976)	32

Fiscal year 1976-77 617

Matrimonial Causes New Matters

1973	10,342	(increase in 1973)	730
1974	11,998	(increase in 1974)	1,656
1975	12,738	(increase in 1975)	740
1976	13,378	(increase in 1976)	640

Fiscal year 1976-77 13,194

Number of Payments into Court

1973	218	(decrease in 1973)	26
1974	190	(decrease in 1974)	28
1975	189	(decrease in 1975)	1
1976	232	(increase in 1976)	43

Fiscal year 1976-77 262

New Fiats Authorizing Payments Out of Court for Maintenance and Other Purposes

1973	370	(decrease in 1973)	132
1974	271	(decrease in 1974)	99
1975	384	(increase in 1975)	113
1976	417	(increase in 1976)	33

Fiscal year 1976-77 401

Number of Payments Out of Court pursuant to Existing Fiats

1973	1,783	(decrease in 1973)	256
1974	1,572	(decrease in 1974)	211
1975	1,607	(increase in 1975)	35
1976	1,787	(increase in 1976)	180

Fiscal year 1976-77 1,787

General Counsel Work in Matters Arising out of:

The Child Welfare Act; The Dependents' Relief Act; The Devolution of Estates Act; The Dower Act; The Fatal Accidents Act; The Highway Traffic Act; The Infants Act; The Settled Estates Act; The Surrogate Court Act; The Trustee Act; The Variation of Trusts Act; The Wills Act; The Insurance Act; The Mortgages Act; The Partition Act.

1973 — 1,029	(decrease in 1973)	100
1974 — 1,141	(increase in 1974)	112
1975 — 1,125	(decrease in 1975)	16
1976 — 1,325	(increase in 1976)	200
1976-77 fiscal - 1,394		

Child representation in custody and access matters 1976 — 79

New Miscellaneous Matters

Numerous attendances, telephone inquiries and extensive correspondence, both with solicitors and the public, about how to deal with the personal and financial welfare of infants.

The Total Number of New Matters and Cases in the Years:		
	1973 —	14,395
	1974 —	15,801
	1975 —	16,651
	1976 —	17,858
1976-77 fiscal 17,734		

Forecast of Operational Activities

The office of the Official Guardian does not develop or try to develop new programs and activities. The office, for practical purposes, simply renders legal services on behalf of persons with a disability or those under the age of 18.

The forecast of the programs and activities for the fiscal year 1977-78 and for the three succeeding years are as follows:

Surrogate Court Audits	1977 — 78	650
	1978 — 79	650
	1979 — 80	650
	1980 — 81	650

Matrimonial Causes New Matters

1977 — 78	15,500
1978 — 79	16,500
1979 — 80	17,500
1980 — 81	18,500

Number of Payments into Court

1977 — 78	250
1978 — 79	250
1979 — 80	250
1980 — 81	250

New Fiats Authorizing Payments Out of Court for Maintenance and Other Purposes

1977 — 78	450
1978 — 79	500
1979 — 80	550
1980 — 81	600

Number of Payments Out of Court pursuant to Existing Fiats

1977 — 78	1,900
1978 — 79	2,000
1979 — 80	2,100
1980 — 81	2,200

General Counsel Work	1977 — 78	1,500
	1978 — 79	1,600
	1979 — 80	1,700
	1980 — 81	1,800

Child Representation in Custody and Access Matters

1977 — 78	400
1978 — 79	500
1979 — 80	600
1980 — 81	700

Public Trustee

F.J. Maher, Q.C.,
Public Trustee

Duties

Funds in excess of \$157 million were the responsibility of the Public Trustee at the end of the fiscal year. This is an increase of 9.3 per cent from the previous year. The Public Trustee's duties include the administration of the estates of mentally incompetent persons in provincial psychiatric facilities, nursing homes and homes for special care, and the administration of the estates of persons who die leaving no next-of-kin or heirs-at-law in the province. Additionally, under The Charities Accounting Act and other relevant statutes, it's the job of the Public Trustee to protect the rights of charities. A survey of charitable trusts is maintained in endeavouring to ensure that they are properly administered in accordance with the applicable laws.

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Special Trusts

The Public Trustee also has a number of special trusts. These are gained by accepting requests from the public to exercise powers-of-attorney, by becoming committee for persons under the Mental Incompetency Act, by the direction of a court, or by allocation under The Workmen's Compensation Act and The Compensation for Victims of Crime Act. Further, under the Cemeteries Act, the office continues to acquire administrative funds for the perpetual care of cemeteries.

Other Responsibilities

Under The Business Corporations Act, the office takes on trusts upon the folding of corporations where there are creditors or shareholders entitled to distributions whose whereabouts are unknown. It also acts on behalf of the Crown with respect to the forfeiting of assets of corporations whose charters have been dissolved.

General Operations

While there has been no substantial change in operations, the number of open files increased by more than three per cent and the number of files opened and closed exceeded 15 per cent of the total files maintained.

No Increase in Staff

Despite the substantial increase in the assets administered by this office for patients and Crown estates, the office has continued to function smoothly with no increase in its staff of 155.

Earnings and Expenses

as at March 31st, 1977

Fees: Patients' estates	811,630
Crown estates	314,294
Special trusts	106,159
Company trusts	25,073
Cemetery trusts	16,193
Charities	35,664
Total Fees	\$ 1,309,013
Bank interest	14,359
Net earnings from Investment Fund Account	2,119,081
Total revenue	\$ 3,442,407
Debit balance written off	46
Gross earnings	\$ 3,442,361
Operating expenses	2,865,673
Total net earnings for 1976-77	576,734

Investment Fund Account

as at March 31, 1977

Bonds at amortized cost	83,709,136
Accrued interest received	1,907,586
Cash in bank	53,278
Total	\$ 85,670,000
Interest earned on investments	6,747,630
Interest earned on bank accounts	46,631
Total	\$ 6,794,261
Less: Interest allowed	3,882,106
Book loss on exchange of securities	793,074
Net earnings in Investment Fund	\$ 2,119,081

Securities Held for Investment Fund Account

as at March 31st, 1977

	Par Value	Book Value	Market Value
Ontario Hydro	59,262,000	58,767,351	57,349,182
Province of Ontario	25,160,000	24,941,785	22,467,575
Total	\$84,422,000	\$83,709,136	\$79,816,757

Assets under Administration

as at March 31, 1977

\$157,486,100

Programs and Administration Division

B.W. McLoughlin, C.A.,
General Manager

Function

This section of the Ministry is responsible for directing and co-ordinating the Ministry's general support services including personnel, financial management, auditing and administrative procedures. In 1976-77 emphasis was placed on increasing the efficiency of available resources in compliance with the Ontario Government's continued constraint measures.

Planning and Evaluation Branch

J. Solymos,
Co-Ordinator

The main service provided during 1976-77 was, as in prior years, in support of the goal of improved utilization and allocation of resources in the various programs of the Ministry. It was part of a special effort which by 1978 is planned to benefit most of the Ministry's operations.

Management by Results

This special initiative is in response to the Ontario Government's intention that all ministries fully implement by March 31, 1978, a management concept known as MBR (for Management by Results), the thrust of which is to focus management attention on the results of public expenditure. Among the implications of adopting this management concept are the development and/or improvement of data flows on workloads and resource levels as well as the use of the resultant information in measuring and monitoring the overall efficiency and, where suitable, the general effectiveness of programs. Work was accordingly continued on the development, test, refinement and maintenance of ways to measure and report upon the levels of resource utilization actually attained in the various programs. At the start of the year, the utilization of some 30 per cent of the Ministry's resources was being monitored, the result of earlier work in the Branch. Broad, over-all indicators were being developed and formally reported to measure utilization in such terms as "average workload per man-year". By year-end,

this monitoring process had been extended to other key programs which comprise a further 30 per cent of the Ministry's resources, thereby bringing total coverage to 60 per cent.

Special Evaluations

Other services provided by the Branch during 1976-77 were concerned with specific day-to-day issues. Statistical and other evaluations, for example, were prepared as support for several applications to Management Board for budgetary and program adjustments.

Accountant, Supreme Court of Ontario

E.J. McGann,
Accountant

Assets

Assets under management at the end of the fiscal year 1976 totalled \$143 million, up from \$122 million the previous year. The rate of nine per cent per annum on funds belonging to infants was maintained throughout the year. The rate of six per cent per annum continues to be paid on other funds being held pending court cases. Both rates are compounded semi-annually and are now calculated on a minimum monthly basis.

Revenues and Investments

The investment portfolio continues to be traded actively. The interest revenue on the portfolio increased to \$10.05 million from \$8.50 million in the fiscal year 1975-76. The monies paid into Suits and Matters in the current fiscal year totalled \$45 million while disbursements for the same period were \$39 million. In the previous fiscal year the figures were \$46 million and \$35 million respectively.

Finance and Services Branch

H.A. Gibbs,
Director

During the fiscal year 1976-77, the efforts of the Branch were directed towards innovations to facilitate the Ministry's response to the Treasurer's program of constraint in Provincial expenditures.

The Expenditure Reporting and Control System was redesigned to highlight variances from planned levels of expenditure, and supported by detailed subsystems in regard to staff utilization.

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Part of management's role in ensuring spending economies is to satisfy itself that assets now on hand are being fully utilized; accordingly two major control systems were introduced in the Ministry, one for furniture and equipment and the other for advance account funds located with field offices and individual employees.

A review of unpaid fines and revenue sources was undertaken, leading to a decision to mount a major study in this area of Ministry operations during 1977-78.

The non-financial support services area saw the introduction of a Forms Management program in the Ministry as a potential source of significant cost saving. The Stationery Supply Service was terminated as the resources involved can be better employed in support of the Forms management program.

Personnel Management Branch

O.M. Mitchell,
Director

The significant factors which affected the operation of the Branch were the continuing staffing and budget constraints, and activity in Staff Relations, particularly interpreting and testing the Collective Agreements.

Constraints

The freeze on external recruitment was continued during the year and changes included Management Board restraints on the hiring of unclassified staff. Procedures for handling the appointments of both classified and unclassified staff created a sharp increase in workload for the Branch.

Staff Relations

Assistance to Managers in the area of staff relations has been a major component of personnel work during the year. Staff have been involved in active resolution of complaints and in providing interpretation of articles of Collective Agreements.

IPPEB

The Ministry conversion to IPPEB was completed. This involved a major restructuring of organization coding and records.

Staff Training and Development

The training program with the Provincial courts has been fully established, all Court

Administrators having attended the first residential session of their on-going program.

Audit Services Branch

S.E. Neundorf,
Director

Summary of Activities for the fiscal year ending March 21, 1977

Audit

The completion of audits of Court and Judicial Offices proceeded at approximately the same level as in the previous year. Special assignments placed heavy demands on the Branch's manpower resources. In particular, the IPPEB conversion required the Branch's services over a period of two months.

The Branch is currently taking an active part in the work of an Interministerial Committee investigating the vehicle registration system and the development of a centralized control and collection of unpaid fines.

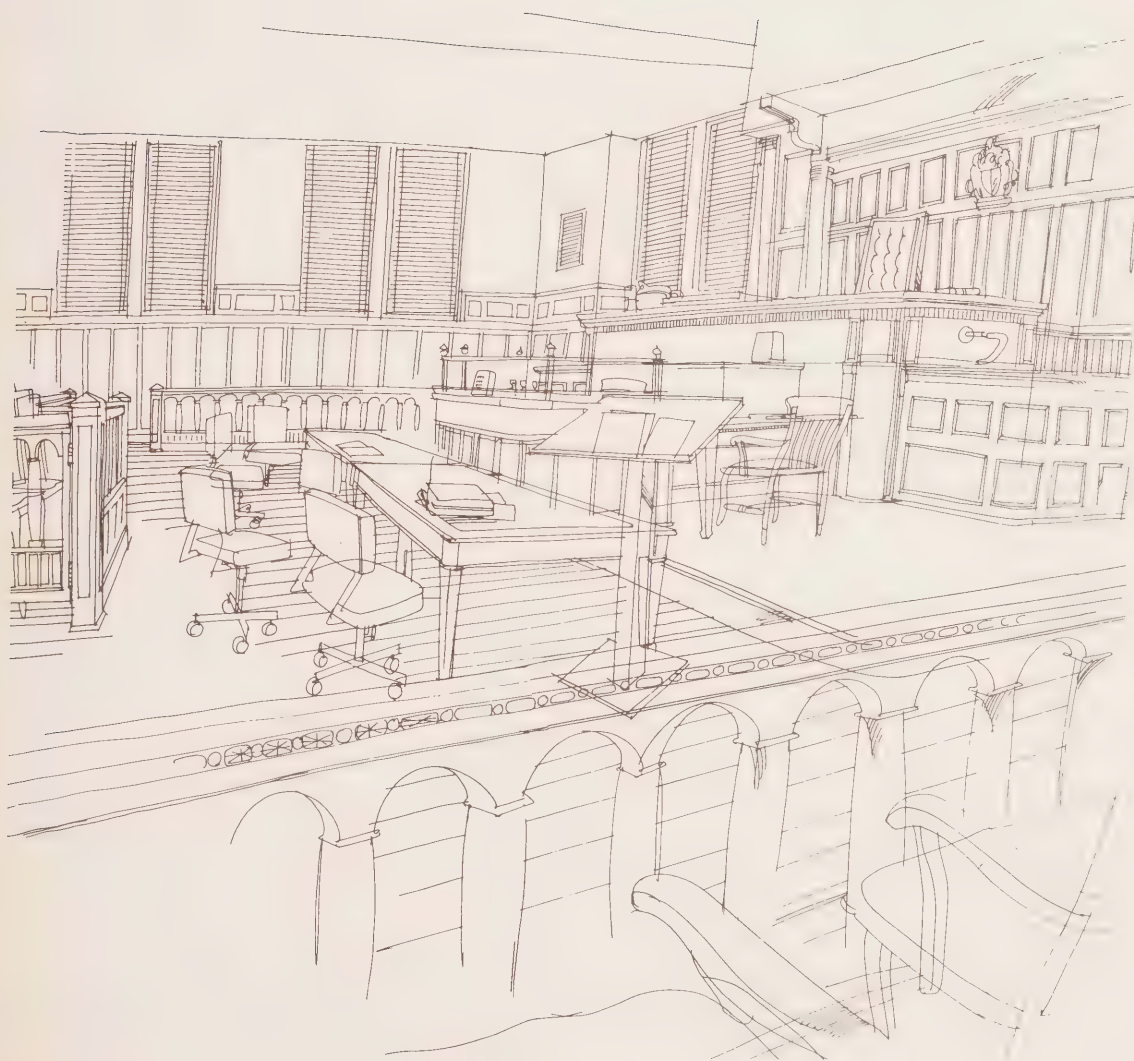
Defaulted Fines/Licence Suspension System

There are indications that suspension activity is stabilizing at or near the level reached in the previous year. The rate of reinstatements continues to show improvement; the cumulative rate at March 31, 1977, stood at 72 per cent while for the fiscal year 1976-77, it was 89 per cent. The accumulated value of reinstatements of \$4,599,858.

Systems Development Branch

R.N. Rintoul,
Director

During the 1976-77 fiscal year this branch continued to work on a number of projects designed to make more effective use of the available resources. Included were developmental work on: CYCLOPS III to improve the scheduling of court hearings and caseloads; a mechanized accounting system for the Public Trustee's Office; and studies to improve the efficiency of the retrieval of information in the County Court, York.



Boards and Commissions

Ontario Law Reform Commission

Chairman:

H. Allan Leal, Q.C., LL.M., LL.D.

Vice-Chairman:

Honourable George A. Gale., C.C., Q.C., LL.D.

Members:

Honourable Richard A. Bell, P.C., Q.C.

W. Gibson Gray, Q.C.

Honourable James C. McRuer, O.C., LL.D., D.C.L.

William R. Poole, Q.C.

Function

The Ontario Law Reform Commission was established as an independent commission in 1964 to investigate and consider any matter relating to:

- Reform of the law having regard to the statute law, the common law and judicial decisions.
- The administration of justice.
- Judicial and quasi-judicial procedures under any act.
- Any subject referred to it by the Attorney General.

Over the past 13 years, the commission has studied a broad range of topics and has published 52 reports containing recommendations for law reform. Many of the reports have been implemented and have formed the basis for both new legislation and for amendments to existing statutes. Examples of this implementation include The Condominium Act, The Age of Majority and Accountability Act, The Coroners Act, and legislation governing landlord and tenant law. The impact of the commission's reports can also be seen in the bills introduced concerning the reform of family law and the law of succession.

Reports During 1976-77

In the past fiscal year, the commission completed work on projects dealing with changes of name and the impact of divorce on existing wills, and published reports on both topics. The commission's Report on Changes of Name contains recommendations permitting more flexibility in the choice of a spouse's name, and in the name given to children at birth. The report also contains

recommendations for reforming the change-of-name procedure: These recommendations include proposals to make court procedures for changing names under The Change of Name Act simpler, more informal and cheaper. The Report on The Impact of Divorce on Existing Wills makes recommendations designed to avoid unintended windfall benefits to ex-spouses resulting from their former spouses' neglect to alter a will following divorce or annulment.

In addition to published reports, an Interim Report on the Orderly Payment of Debts was submitted to the Attorney General to assist in the formulation of an Ontario response to the federal bankruptcy bill. This document, which develops a scheme designed to assist over-committed small debtors, has not been published, however it will be, in a revised version, and will form part of the commission's final Report on the Enforcement of Judgment Debts.

Acting on a letter of reference from the Minister, the commission has begun a study of class actions. The project will include an investigation of the nature and rationale of class actions and the desirability of their development in Ontario. The project will pay particular attention to the potential impact of class actions on the court system.

In addition, the commission is studying the Law of Standing, and has decided to undertake a project dealing with manufacturers' liability for defective products.

Throughout the year work has continued on other projects, including the Minister's reference on The Sale of Goods Act and projects initiated by the commission on the Law of Trusts and the Enforcement of Judgment Debts.

As in former years, the commission has gained valuable assistance from its contacts with law reform agencies throughout the world, from the Uniform Law Conference of Canada, and from members of the profession and the public.

Full Report Available

A full report for the fiscal year 1976-77 is available from the Ontario Law Reform Commission or the Government of Ontario Bookstore.

Ontario Municipal Board

Chairman:

W.H. Palmer (retired June 30, 1976)

W. Shub, Q.C. (appointed July 1, 1976)

Vice-Chairmen:

A.H. Arrell, Q.C.

F.G. Blake

A.L. McCrae

Members:

W.T. Shrives

W.H.J. Thompson, Q.C.

B.E. Smith

D.S. Colbourne

S.S. Speigel

H.H. Lancaster

P.M. Brooks

A.B. Ball

H.E. Stewart

C.G. Ebers, Q.C.

H.W. Kelly, Q.C.

J.A. Wheler

E.A. Seaborn

A.J.L. Chapman, Q.C.

L.P.D. Staples (resigned October 1, 1976)

M. Corbett

W.E. Dyer, Q.C.

C.G. Charron, Q.C.

J. Wadds

K.D. Bindhardt

W.L. Blair

Establishment

Under the authority of The Ontario Municipal Board Act.

Primary Jurisdiction

The Ontario Municipal Board Act, The Municipal Act, The Planning Act, The Assessment Act and diverse Ontario statutes including special legislation.

Functions

To effect the growth and economic stability of municipalities in various fields.

1. Municipal Structure

Constitution, alteration of boundaries, and dissolution of municipalities.

2. Capital Expenditure

Financial supervisory role, approval of capital undertakings, and the manner of recovery.

3. Planning Administration

Approval of restricted area by-laws, official plans and plans of subdivisions, and appeals

from land division committees and committees of adjustment.

4. Assessment Appeals

5. Miscellaneous Applications

Appeals

1. Division Court on matters of law and jurisdiction.

2. Petition to Lieutenant Governor in Council.

3. Application to board for rehearing.

1976 Calendar Year

Number of applications — 9,143

Number of hearings — 2,325

Board's annual report is available for more detail.

Assessment Review Court

Chairman:

B.H.B. Bowlby, Q.C.

Vice-Chairman:

G.C. Hewson

Vice-Chairman part-time:

S.R.R. McNeil

Jurisdiction

The Assessment Review Court was established under The Assessment Act, 1968-69, and continues under The Assessment Review Court Act, 1972. This court is an administrative tribunal which draws its jurisdiction from The Assessment Act and The Municipal Act.

The responsibility of the Court is to hear and determine:

1) Complaints against real property assessment for the basis of municipal taxation in Ontario at the least cost to the taxpayer.

2) Appeals from municipal clerks' refusal to amend the list showing school support for school board taxation.

3) The apportionment of municipal taxes or rates applicable to individual parcels where land has been assessed in block.

4) When authorized by municipal bylaw (or by way of an appeal from the decision of a municipal council) applications for cancellation, reduction or refund of municipal taxes; and, when authorized by a municipal council (or by way of an appeal from the decision of a municipal council), applications for an increase in municipal taxes where gross or obvious errors have been made in the collectors' roll.

Boards and Commissions

Administrative Functions

In addition to their duties regarding the processing and scheduling for hearing of assessment complaints, the Regional Registrars of the Court certify the last revised assessment roll of each municipality. They also process and schedule all assessment appeals to County or District judges within the province under Section 55 of The Assessment Act.

Summary of Activities

The following is a brief report of the activities of the Court from April 1, 1976, to March 31, 1977.

1. Court Sittings

During the year the Court sat for 647 days in municipalities throughout the province and heard and ruled on 107,040 complaints, appeals and applications.

The regional registrars processed and scheduled complaints against assessment and processed and scheduled appeals to the county or district judge under Section 55 of The Assessment Act.

During this period, the Assessment Review Court experienced a further considerable increase over former years in complaints relating to all properties but, in particular, to income-producing properties such as apartment houses, office buildings and hotels. At the same time, more taxpayers were represented by professional agents, tax consultants and counsel.

No municipalities were proclaimed at market value for assessment purposes during this period.

2. Training and Development of Court Members and Staff

During this period, groups of Court members attended two- and three-day instructional seminars in Toronto. In addition, special one-day seminars for members were held in Brockville, London, Toronto, Niagara-on-the-Lake and Sudbury.

Regional registrars and assistant regional registrars attended one-day instructional seminars in Orillia and Toronto.

Clerks of the Court attended one-day instructional seminars in Kingston, Thunder Bay, Alliston, London and Niagara-on-the-Lake.

3. Administrative Matters

During this period, the Court reviewed the procedures being followed at Court hearings. It also continued the special assignment hearings in Metro Toronto and Ottawa, with emphasis on individual assignment hearings with tax consultants, agents and counsel for the complainants to expedite the scheduling of hearings of complaints to avoid conflict of dates.

There have been no changes in legislation to affect the operation of the Court from April 1, 1976, to March 31, 1977.

Summary of Assessment Review Court Complaints and Appeals

	1974-75	1975-76	1976-77
Section 52 of The Assessment Act (1)	70,221	58,212	65,197
Section 42, 43 of The Assessment Act (2)	12,449	16,436	6,616
Sections 516, 547, 636a, 636b of The Municipal Act (3)	13,176	18,410	35,227
Total	95,846	93,058	107,040

- Note: (1) This section deals with complaints against annual assessment made under Section 40 of the Act.
(2) These sections deal with complaints against additional assessment under Sections 42 and 43 of the Act.
(3) These sections deal with applications and appeals relating to:
(a) School support
(b) Apportionment of municipal taxes
(c) Cancellation, reduction, or refund of municipal taxes
(d) Increase in municipal taxes by reason of clerical errors

Summary of Appeals to County and District Court Judges (Section 55 of The Assessment Act)

	1974-75	1975-76	1976-77
Appeals	14,324	3,723	4,546

Criminal Injuries Compensation Board

Chairman: Allan Grossman
 Vice-Chairman: Shaun MacGrath
 Vice-Chairman (part-time): S. David Cork
 Member (part-time): Anne Austin
 Member (part-time): Audrey Merrett
 Member (part-time): Edward W. Tyrrell, Q.C.
 Member (part-time): Douglas H. Lissaman, Q.C.

The board, composed of two full-time members and five others part-time, administers The Compensation for Victims of Crime Act, 1971, which succeeded The Law Enforcement Compensation Act, 1967.

Function of Board

The board decides whether applicants for compensation are eligible and, if so, on the amount to be awarded. Compensation is awarded, for personal injury only, when a person in Ontario is injured or killed as a result of a crime of violence outlawed by the Criminal Code of Canada. Such offences include assault, wounding, murder and rape. Injuries caused by a motor vehicle are excluded from the Act unless the vehicle is used to commit an assault. Compensation may also be awarded when a

person is hurt while lawfully arresting or attempting to arrest someone for an offence against another person; when a person is injured while assisting a law officer; or when someone is injured while preventing or trying to prevent an offence against another person.

Hearings

All hearings of the board are public. They are held in Toronto and, when practical, in such centres as Thunder Bay, Sudbury, Windsor and Ottawa, where hearings took place in the year under review.

Increased Productivity

The board, with internal reorganization and without added staff, heard 608 applications, an increase of 135, or 28 per cent. The awards increased by 57 per cent, from \$902,678 to \$1,423,640, and the average award rose from \$1,425 to \$1,958, or 37 per cent.

Annual Report

This report is available from the board's offices at 439 University Ave., 17th floor, Toronto, M5G 1Y8. Telephone: 965-4755. Brochures in various languages are also available from the board and can be found in court houses, police stations, legal aid offices, and a number of other public buildings throughout Ontario.

Comparative Summary — Fiscal Years
Applications and Disposition

	April 1, 1973 to March 31, 1974	April 1, 1974 to March 31, 1975	April 1, 1975 to March 31, 1976	April 1, 1976 to March 31, 1977
Eligible applications received	510	639	851	971
Applications heard (1)	386	381	473	611
Applications heard and dismissed	22	40	75	63
Applications heard —				
further evidence required	5	6	1	5
Second hearings	4	8	4	4
Review of awards	1	1	1	6
Decisions completed and				
awards ordered (2)	402	349	451	609
Interim awards	3	nil	3	8
Supplementary awards	27	12	19	25
Periodic awards	10	16	12	21
Lump-sum payments	\$591,944.26	\$561,114.03	\$708,640.29	\$1,192,840.37
Periodic payments	130,963.07	165,814.00	194,038.00	230,800.56
Total of awards ordered	722,637.33	726,928.03	902,678.29	1,423,640.93
Average award (3)	1,472.50	1,607.77	1,425.84	1,958.69
Hearings pending	426	599	914	1188

- Note (1) Includes applications heard and dismissed and applications heard but where further evidence is required
 (2) Includes interim, supplementary and periodic awards
 (3) Periodic payments are not included when arriving at the average award

Boards and Commissions

Land Compensation Board

Chairman:
J.S. Yoerger, Q.C.

More notices of arbitration were filed with the board than in the previous year. Settlements reached by land-owners and expropriating authorities on the compensation payable have increased in relation to the number of arbitration cases set down for hearing. The number and the length of hearings have increased due mainly to the more complex opinions of expert witnesses, mainly in the fields of real-estate appraising, engineering, planning and accounting.

Interlocutory matters are becoming more frequent. These are initiated by application by notice of motion under The Rules of Practice and Procedure of the board. Applications are made for direction by the board on questions of law; for production and answers on discovery; for particulars with respect to pleadings and for permission to amend pleadings; for adding parties to the arbitration proceedings; and to set a date for hearing in situations where a certificate of readiness has not been completed by the parties and filed with the board.

On January 1, 1977, James Worrall, Q.C., was appointed to the board.

This adds a third vice-chairman, bringing the board's complement to ten; the chairman, three vice-chairmen and six members. Because The Expropriations Act requires that the quorum of three consist of the chairman or a vice-chairman and two members, the addition of a third vice-chairman has enabled the registrar to schedule hearings within a shorter period of time. The time required to bring a notice of arbitration to the hearing stage depends on the parties completing their pleadings, examinations for discovery, exchange of appraisal reports, and, finally, the certificate of readiness.

Report on Operations For the Fiscal Year 1976-77

Notices of Arbitration		
Filed with the board		182
Hearings completed		35
In Metropolitan Toronto	17	
In Peterborough	1	
In London	1	
In Thunder Bay	1	
In Ottawa	7	
In Sudbury	2	
In Welland	1	
In Guelph	1	
In Cambridge	1	
In Hamilton	1	
In Cornwall	1	
In Timmins	1	
	35	
Total amount claimed		\$5,424,286
Total amount awarded		\$2,657,540
Notices of Motion		
Filed with the board		30
Completed		28
To be heard		2

**Statistical Data With Comparative Information Relevant to
Board Activities in the Years
1971-72 1972-73 1973-74 1974-75 1975-76 1976-77
to March 31, 1977**

Notices of Arbitration

	71-72	72-73	73-74	74-75	75-76	76-77	Total
Applications received	218	99	79	132	170	182	880
Applications completed							
(a) by arbitration	28	46	26	33	38	42	213
(b) by settlement	33	28	73	45	43	83	305
Written decisions of the board	28	46	26	33	36	44	213
Decisions pending						3	
Award of the board	(see schedule B)						

Notices of Motion

Applications received	13	15	25	22	23	30	128
Written rulings of the board	6	7	12	19	20	28	92

Schedule B

**Cumulative Summary of Awards of the Board
From April 1, 1971 to March 31, 1977**

	Claimed	Awarded
(a) Market value	\$43,754,680	\$18,910,855
(b) For damages		
(1) disturbance	2,271,809	721,981
(2) injurious affection	3,521,118	612,913
Total	\$49,547,607	\$20,245,749

Note: One of the notices of arbitration was for a claim for compensation totalling \$10,000,000. The award of the board was \$58,000.

Boards and Commissions

Board of Negotiation

Chairman:
W.C. Dymond

Members:
J.M. Bennett
J.A. Ferguson
F.L. Heaman
W.J. Mowat
L.J. Schedlin
G.W. Swayze

Function

The Board of Negotiation was created by the provisions of The Expropriations Act, 1968-69. It provides an informal tribunal which, without prejudice to any subsequent arbitration procedures, may negotiate in a summary and informal manner, settlement of a compensation in expropriation cases.

Informality

The board, upon receiving a written request from either party, arranges meetings between the expropriated party and the expropriating authority. A formal notice is issued to both parties, advising them of the time and place of the meeting, which can be held throughout the province without cost to either party. A unique provision of the act provides that the board shall view the property in question.

An individual may appear on his own behalf to present his compensation claim. If no agreement follows these informal negotiations, the parties are free to seek arbitration from the Ontario Land Compensation Board.

Activity Report	1976-77
Requests for hearings	260
Hearings held	228
Requests to be scheduled	12
Requests scheduled and waiting to be heard	25

Activity Report - Fiscal Year 1976-77

Expropriating party	Number of Applications
Board of Education Carlton	1
Peel	1
Toronto	1
Borough of North York	2
Scarborough	1
Conservation Authorities Cataraqui Region	4
Credit Valley	3
Halton Region	2
Sault Ste. Marie	1
Corporation of the City of Burlington	3
Hamilton	19
London	4
Ottawa	1
Sault Ste. Marie	2
Thunder Bay	5
Windsor	5
Corporation of the Town of Tillsonburg	24
Township of Gloucester	8
Township of Kincardine	1
Township of Nepean	20
County of Ontario	1
Metropolitan Toronto	
Separate School Board	2
Ministry of the Environment	2
Housing	3
Transportation and Communications	51
Municipality of Metropolitan Toronto	34
Ontario Hydro	22
Regional Municipality of	
Haldimand-Norfolk	2
Hamilton-Wentworth	1
Halton	2
Niagara	3
Ottawa-Carleton	17
York	1
Union Gas Company of Canada Limited	11
	260

Two-Year Follow-Up Report for Year 1975

Number of requests
for meetings (1975) 245

Number of settlements reported
following negotiations in the period
January 1, 1975 to December 31, 1975 35

Requests for meetings cancelled 49

Balance to be surveyed
by two-year follow-up 161

This report is based on replies to 161
questionnaires mailed to the
expropriating authorities from whom
we had not heard regarding results
of the 1975 meetings.

Questionnaires mailed 161
Replies received 157
Unanswered 4

From the 157 replies received, we
have compiled the following
information:

Settlements (Board of Negotiation's
recommendation a factor) 79

Proceeded to, or intending to proceed
to, Land Compensation Board 41

Still negotiating 18

In abeyance, pending, not presently
being negotiated 19

A study was made of 170 requests from the 264 requests received in 1976, showing the position of both parties before the meeting proceeded. The study disclosed that:

The claimants were asking compensation to settle totalling	\$20,648,838
The expropriation authorities offered	10,135,316
The board's recommendations were	11,859,759

The total requests, estimating the remaining 94 requests at \$6 million, would be in excess of \$26 million.

Authorities' Offer	Claimant	Board's Recommendation	Value Range	Number Involved		
	Asking	Percentage over offer	Percentage over offer			
\$ 198,410	\$ 521,021	162.59	\$ 249,919	25.96	1 - 4999	68
545,643	1,348,503	147.14	725,534	32.97	5,000- 24,999	39
1,457,437	3,191,430	118.97	1,789,192	22.76	25,000- 75,000	34
1,340,376	2,669,004	99.12	1,527,777	13.98	75,000-150,000	14
703,500	2,302,000	227.22	829,400	17.90	150,000-250,000	4
2,553,000	4,962,493	94.38	2,976,346	16.58	250,000-500,000	8
3,336,950	5,654,387	69.45	3,761,591	12.73	500,000 up	3

Average offer	\$ 59,619.00
Average asking	121,463.00
Average recommendation	69,804.00

Background Papers

Expansion of the Traffic Tribunal Concept

The Ministry of the Attorney General has expanded the Traffic Tribunal concept to the Metropolitan Toronto boroughs of Etobicoke, Scarborough and York. This expansion followed a careful monitoring and evaluation of the North York Traffic Tribunal which began in 1974 on a developmental project basis. The overwhelming success of the North York Traffic Tribunal has clearly established the desirability of extending the tribunal concept to other parts of the Province in the future.

Origins of the Concept

In the spring of 1973, a special committee chaired by His Honour Chief Judge F.C. Hayes, Provincial Court (Criminal Division), recommended a new and innovative approach of adjudicating offences under the Highway Traffic Act. The Committee appointed Howard F. Morton, an Assistant Crown Attorney, as project manager and the task of implementing the Committee's recommendations was underway. The Borough of North York was chosen as the site for the pilot project and on June 6, 1974, the North York Traffic Tribunal commenced the hearing of all traffic offences in that Borough and the tribunal approach became a reality.

Objectives of the Tribunal Concept

1. To remove all provincial traffic offences from the criminal court milieu at the then existing North York Provincial Court. It was felt that by hearing all traffic offences at a separate traffic tribunal, a less formal approach might be adopted which would encourage a better understanding by the offender of the consequences of his infraction.
 2. To implement a driver training program as part of the tribunal structure in a way that it becomes an integral part of the sentencing process.
 3. To formally introduce a plea of guilty with an explanation on a drop-in basis. Quite often an offender will feel that although he has committed an offence, there are mitigating circumstances surrounding the commission of the offence which he wishes to bring to the attention of the Court. Under the usual traffic court system, more often than not, this offender will appear at court and enter a plea of not guilty, thus necessitating a full trial. By offering the offender a plea of guilty with an explanation, which can be exercised by him dropping in at the tribunal at a time convenient to him, it was anticipated that a significant number of offenders would exercise this option and thus reduce the volume of trials and the cost of requiring a trial.
- It was also expected that if a significant number of offenders avail themselves of this plea, the ever-increasing amount of time spent by police officers in court would be significantly reduced.
4. To increase the number of daily sessions for pleas of not guilty from three to five. The sessions are as follows:
Monday to Thursday session:
(a) 9:00 a.m. — 10:30 a.m.
(b) 10:30 a.m. — 12:00 noon
(c) 1:30 p.m. — 3:00 p.m.
(d) 3:00 p.m. — 4:30 p.m.
(e) 7:00 p.m. — 8:30 p.m.
- On Fridays, there is no night session.
- The reasons for increasing the number of sessions as above were as follows:
- (a) Irrespective of the application of any of the principles set out in the Committee's preliminary report, it was the view of the Committee that as the traffic offence caseload was increasing and would continue to increase, the physical facilities would not properly accommodate the number of personal appearances at the peak hours of a three-sitting schedule. The implementation of the CYCLOPS program had increased this caseloading and in order to accommodate this increased caseload and apply it to this type of hearing, there had to be an assurance that the public was not dealt with on an assembly line basis.
 - (b) To decrease the amount of time spent by police officers sitting in court awaiting their cases to be called. By scheduling police officers' court appearances on a 1½ session, less time is spent by police officers in court.
 - (c) To bring the tribunal's business hours within the usual business hours of the community.

5. To introduce new techniques and new methods of administering minor traffic offences, some of which are as follows:

(a) There is no prosecutor in the minor traffic hearing room, rather the investigating officer and the alleged offender each give their evidence from wing-shaped witness stands facing the hearing officer.

(b) There is no court reporter in the minor traffic hearing rooms, rather the hearing is recorded on sound recording devices built into the witness stands.

(c) Cathode ray tube terminals situated in front of the hearing officer and the offender makes available upon conviction, a summary of the driving record of the offender which is used as a basis for the discussion between the offender and the hearing officer.

Further, a hard copy printer provides each offender with a copy of the above summary which may be kept by the offender for future reference.

6. To create evaluation techniques which would measure the success or failure of both the hearing room and driver training aspects of the tribunal system.

Having completed the particulars on the ticket, the police officer then signs the summons portion and hands it to the offender pointing out to him the date and place of the hearing. The officer, having served the summons portion, then signs the certificate of service on the information portion. This certificate is then prima facie evidence of personal service.

At the time of service of the summons portion of the ticket to the offender, the officer also hands the offender a notice.

The notice advises the offender that in addition to paying the fine out of court or appearing in court on the date set by the officer on the ticket, the offender may appear at the Tribunal on a drop-in basis to enter a plea of guilty with an explanation in cases where he feels he did commit the offence but feels that there were mitigating circumstances surrounding the commission of the offence.

How the Tribunal Works for Offenders

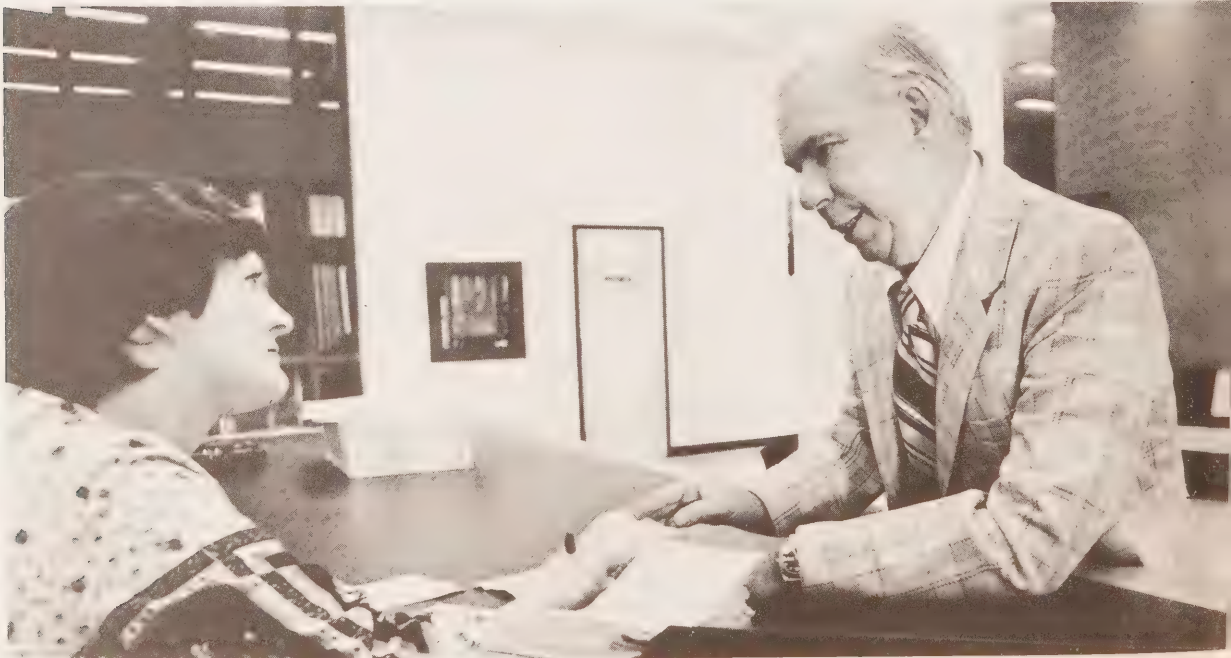
(1) At the Time of the Ticket

The offending motorist is stopped at the roadside by a police officer who has decided to lay a charge against him on the basis that he has reasonable and probable ground to believe that the motorist has committed an offence contrary to the Highway Traffic Act. The offender is advised by the police officer that he is going to be charged and is asked whether he would prefer his court appearance to be at day or night court. After the offender elects day or night court, the police officer inserts the offender's trial date and time on the summons portion of the summary conviction ticket. The officer has been previously provided with a list of his court appearance dates. In the case of certain offences, the officer has been authorized by the Court to insert on the ticket the amount of the fine for an out-of-court settlement.

Background Papers



The motorist receives a ticket for a driving offence and a notice about the operation of the Traffic Tribunal.



The motorist appears at the Tribunal office, at his convenience prior to the trial date, with the intention of pleading guilty with an explanation.



After discussing his intentions with the Justice of the Peace, the case proceeds with the motorist offering his explanation. After a conviction is registered, the Justice of the Peace activates the computer outlet and in a few seconds the motorist's driving history, if any, appears on a screen in front of each of them. They discuss the possibility of the driver improvement course, if it seems beneficial, before sentence is passed.



If the motorist agrees to participate in the driver improvement course, he would be directed to one of the classrooms where a driver training instructor is present at all times.

Background Papers

(2) Plea of Guilty with an Explanation

The offender may drop in at the Tribunal at any time after seven days of receipt of the ticket or summons but at least one business day before the trial date. This gives the offender at least four weeks to resolve the matter at a time convenient to him. The Tribunal is open to accept pleas of guilty with an explanation from 9:00 a.m. to 9:00 p.m., Monday to Thursday, and on Fridays from 9:00 a.m. to 4:00 p.m.

Upon his arrival at the Tribunal, the offender reports to the receptionist, and advises her of his intention to plead guilty with an explanation, stating his name and trial date and handing to her the summons, if he has brought it with him. The offender and the original information are then taken to the hearing room, the offender proceeds to the front of the hearing room and is seated at the T-shaped conference table across from the hearing officer. The purpose of the conference table approach is to create an atmosphere more conducive to a discussion between the offender and the hearing officer concerning both the offence itself and the offender's driving habits.

The Justice of the Peace (hearing officer) advises the offender of the legal consequences of a plea of guilty with an explanation and if the offender indicates that he does wish to plead guilty, the hearing officer then reads the charge to the offender who pleads guilty and offers his explanation to the hearing officer. A discussion of the explanation then follows. It should be noted that the investigating officer is not present for pleas of guilty with an explanation.

If the hearing officer is satisfied that the offender committed an offence he then registers a conviction. Following conviction, the hearing officer keys the offender's driver's licence number into the visual display screen terminal seated beside him. In a matter of seconds, a summary of the offender's driving record appears on both the hearing officer's screen and a screen located directly in front of the offender. A discussion of the offender's driving history then follows and if the hearing officer is of the view that the offender could benefit from driver training, he recommends it to the offender, pointing out that he would take the offender's attendance at the course into consideration when sentencing him.

If the hearing officer is of the view that the offender would not benefit from the driver training or that the facts of the case or the offender's driving record does not call for it, or if the offender indicates that he does not wish to attend at the driver improvement course, then the offender is sentenced and the hearing officer may take the offender's explanation into account in assessing the amount of fine to be imposed.

Where the offender agrees to participate in the driver improvement course, he would proceed to the driver training area and upon presenting his attendance card to the receptionist he is directed to one of the classrooms where a driver training instructor is present at all times.

In brief, the advantages of having a separate room for pleas of guilty are as follows:

- (1) does away with the need and cost for a full trial where an offender admits that he committed the offence, but simply wishes to give an explanation as to why the offence occurred;
- (2) frees the other courts for actual trials;
- (3) encourages a better relationship between the offender and the administration of justice;
- (4) does away with the need for the police officer to appear and give evidence on that particular offence;
- (5) requires only a Justice of the Peace as there are no other court personnel in the hearing room;
- (6) allows an offender to dispose of the offence at a time which is convenient to him.

(3) Plea of Not Guilty

If an offender wishes to plead not guilty, he simply appears at a hearing room on the date set out in his ticket.

Informality and the need for driver improvement is stressed here in that:

- (a) there is no prosecutor, the offender is entitled to cross-examine the police officer but only the Justice of the Peace is entitled to ask questions of the offender;
- (b) the witness box has been replaced by two wing-shaped areas, one for the offender and one for the police officer. More importantly, the offender, police officer and witnesses face the

Justice of the Peace while giving their evidence rather than facing the public which many offenders and police officers find both embarrassing and intimidating;

(c) each session commences with an opening statement of approximately five minutes in length by the Justice of the Peace. The opening statement explains hearing room procedure and exactly what will occur when the offender's trial begins. Emphasis is given to the need for driver improvement and Ontario's traffic statistics are cited;

(d) offenders and their witnesses may be seated while giving evidence and the dais has been lowered to create a less formal setting;

(e) the record review system and discussion and offer of the driver improvement course are the same as in the plea of guilty hearing room.

(4) Tribunal Milieu

One of the main objectives of the pilot project was to remove the hearing of traffic offences from a criminal court setting. It was felt that many traffic offenders who appeared in the existing criminal court system were embarrassed and, in some cases, intimidated by that system. Moreover, the Committee was of the opinion that the existing criminal court system was unable to give effect to the primary concern of the Highway Traffic Act, which is to reduce the ever-increasing number of needless deaths and injuries that occur on Ontario's highways. The Committee was of the view that the hearing of traffic offences should be held in a more informal atmosphere that concentrated on the need for rules of the road and driver improvement which it was hoped would encourage a better understanding by the offender of the consequences of his infraction.

Driver Improvement Centre

In the past, by adopting the criminal process to traffic offences, a convicted offender would simply be fined and sent back on the road. Although a certain number of demerit points would be registered on his driving record as a result of his conviction, this would not be communicated to the offender by the court and the offender would not be called on to discuss his driving habits until he had accumulated nine or more demerit points in a two year period. It

was hoped that by appearing in a tribunal where the offender's driving habits are the predominant concern both in the hearing room and in the driver training classroom, the offender will become aware of the need for him to improve his driving habits.

The Driver Improvement Centre under the supervision of Bill Boyle has been perhaps the most successful aspect of the tribunal concept from the public's point of view. The program presented at the Centre concentrates on useful driving hints and correcting the major bad driving habits, which lead to most of the injuries and deaths on our highways. The Centre is presently implementing drinking-driving and seatbelt programs in an attempt to tackle two of Ontario's most serious driving problems.

To date, some 50,000 persons have attended the Driver Improvement Centre and the instructors have been brought within the Ministry of the Attorney General.

Evaluation of the Tribunal Concept

From the outset, the North York Traffic Tribunal had been subjected to careful monitoring and analysis. The results of these studies which lead to the conclusion that the tribunal concept is an outstanding success may be summarized as follows:

(1) Public Reaction

A public reaction study was implemented at the outset of the North York Traffic Tribunal. A control study was also undertaken at an ordinary traffic court. The message conveyed by this independent survey was overwhelming. The Tribunal has resulted in a vastly improved public opinion of the administration of justice in North York. It is, of course, impossible to empirically measure the benefits which accrue to society when increased public respect for its judicial system is achieved. Traffic Court is the lowest level of this Province's judicial system. However, it is the only level with which the average citizen becomes personally involved with the administration of justice. Increased public confidence and respect for justice as it is dispensed at traffic court permeates the public's opinion of the entire judicial system.

Background Papers

(2) Police Officers' Reaction

A study of police officers who appeared at the Tribunal showed that their views were similar to the public opinion survey. In addition, all indications are that police officers are spending less time in court which results in a cost savings.

(3) Fewer Trials

Of the accused who choose to come to court, more are electing not to have a trial, and are instead taking advantage of the opportunity to plead guilty with an explanation. This is not only resulting in savings of cash and time, but is also encouraging drivers to come to the Tribunal to discuss and improve their driving abilities.

(4) Reduced Backlog

A comparison of the time within which offences were processed at the Tribunal and at test locations in Willowdale and Scarborough indicated that the Tribunal has sharply reduced the backlog. The disposition date from the date of offence has levelled off at approximately 41 to 45 days, which is substantially better than under the regular system in Scarborough, which on an average is approximately 18 to 20 days longer and in many cases exceeds 100 days. In addition, studies indicate that the use of the existing system in Scarborough is resulting in a gradual lengthening of the disposition date for a majority of the offences.

(5) Better Use of Facilities

The use of the five sittings per day allows for more actual hearing time for offences and a more intensive use of the physical facilities.

(6) Acceptance of Driver Improvement Program

There has been a very substantial acceptance of the driver improvement program, including the attendance at the program on a walk-in basis of other members of the families of offenders and friends of offenders who have heard about the program.

(7) Beneficial Effects

There is a general positive public reaction to the Tribunal. The concept of the Tribunal seems to have had a beneficial effect on the Justices of the Peace, the administrative support staff and the police, with the result that the appearance of the administration of justice has been substantially improved.

Community Service Order Program

In May, 1977, the Honourable R. Roy McMurtry, Q.C., Attorney General for the Province of Ontario, announced his decision to implement a program under which persons convicted of non-violent Criminal Code offences might be ordered by a Court to perform community service under supervision and thereby help repay their debt to society.

Definition

A Community Service Order is a non-custodial sentencing disposition whereby an offender serves his sentence by performing a prescribed number of hours of community service.

Examples of community service could include: maintenance work for senior citizens and the handicapped such as lawn cutting or snow shovelling and assisting in athletic or recreational programs. Community service orders could also include activities such as pollution cleanup of parks and other public property which would otherwise have to be performed by volunteers or simply go undone. The type of work to be carried out under the Community Service Order program will not eliminate any existing jobs or employment opportunities for persons in the community.

Purpose

The purpose of the Community Service Order program is to provide judges with another alternative to sentencing low-risk offenders to jail or prison terms and to provide the necessary supervisory and community resources to better enable the Court to exercise this option. A recent decision of the Ontario Court of Appeal has clarified the legality of such a disposition and in fact urged the Courts to make greater use of Community Service Orders as a sentence and rehabilitative alternative in appropriate cases. It is hoped that the program will prove particularly useful in dealing with the increasing problems of vandalism and wilful damage to both public and private property.

Objectives of the Program

For society in general, the program will mean that many persons now being incarcerated for offences will be ordered to work on various community or public works projects to help

repay society for their crime. When the program is in full operation, it should result in a lowering of our institutional populations at a savings to taxpayers, to the extent the Courts choose to make use of it. As of May, 1977, there were more than 5,000 adults in Provincial Correctional Institutions at an average annual cost to taxpayers of about \$15,000 each. This does not include social costs such as welfare for dependents of inmates which would increase the true cost substantially.

In comparison, the cost of supervising a person on a Community Service Order is about \$875.00 annually. There is a potential in this program for real cost savings.

For the offender, the program will offer a chance to remain in productive work in the community in an atmosphere more conducive to rehabilitation. It will enable the offender to remain with his or her family and avoid the disruption and social problems that often result from incarceration.

It is expected that Community Service Orders will encourage offenders to behave responsibly in the community and that they will therefore spend their leisure time in a meaningful way. In addition, Community Service Orders will concentrate on an offender's abilities and skills rather than his problems. Community service will bring the offender into contact with the recipients of his service and thereby help him to understand the difficulties of others.

Community service will also give an offender the opportunity to work alongside non-offenders. In encouraging the participation of the community in the administration of justice, Community Service Orders may well provide some understanding of offenders by the community.

A similar program of Community Service Orders has been formally implemented in Britain with favourable results for both society and the offender.

Implementation of the Program

On October 13, 1977, the Attorney General of Ontario, the Honourable R. Roy McMurtry, Q.C., and the Minister of Correctional Services, the Honourable Frank Drea, announced the designation of seven pilot projects to administer the Community Service Order program. The

following areas and groups have been selected for pilot projects:

Thunder Bay

The John Howard Society will sponsor the project in Thunder Bay and possibly the outlying areas of Nipigon and Atikokan. Community support includes the Association for the Retarded and the Volunteer Bureau which have indicated they will take Community Service Order placements, and the Addiction Program at Lakehead Psychiatric Hospital which has offered to hold three beds open for Community Service clients.

Scarborough

The John Howard Society of Metropolitan Toronto and staff of Scarborough area Probation/Parole offices will provide supervision to Community Service Orders emanating from the Courts in Scarborough.

Windsor

The St. Leonard's Society will supervise Community Service Orders in Essex County, including Windsor. This would give experience of developing the program in a large city outside Metropolitan Toronto.

Belleville

The Quinte Community Oriented Sentencing Committee is a committee made up of community representatives from the Volunteer Bureau, Police, Courts and Probation. It was set up specifically to develop a Community Service Order program in the Quinte area. The Committee will be responsible for placing offenders under the Community Service Order program in Hastings and Prince Edward Counties.

The local Co-ordinator will be based in Belleville and plans to develop the program in the surrounding rural areas. Belleville was one of the first areas in Ontario to use Community Service Orders.

Oshawa/Ajax

This project will be sponsored by the Probation/Parole Services, Ministry of Correctional Services, who will arrange for one Officer to be seconded as the local Community Service Order Co-Ordinator. This project will cover Durham and Northumberland Counties with initial development in the southern

Background Papers

population corridor between Whitby and Oshawa.

Peterborough

The Peterborough Volunteer Bureau and the Peterborough Probation/Parole Services will work together on a part-time program which will operate three days a week. This will cover the City of Peterborough which has had previous successful experience with Community Service Orders.

Native Indian Project

One project is to be held open for a Native Indian organization to make a submission. To explain the concept of Community Service Orders to interested Indians a Workshop was held in Thunder Bay in September.

The seven area projects were selected from submissions received from local communities where there was interest and support from Judges, Crown Attorneys and community agencies. The selections were made to provide a variety of operational models in both rural and urban settings. Original plans had called for the designation of five project areas but two others were added to increase the diversity of the program. The program will be subject to ongoing evaluation over the next two years to determine the viability of expanding it across the Province.

Occupiers' Liability

In a situation where a person is injured while he is on someone else's property, by reason of a defect or danger in the condition of the property or by some dangerous object which is on it, the liability of the occupier of the property to the injured person is not necessarily decided according to the broad principles of modern negligence law. The injured person must first be categorized. His right to recover damages may depend upon whether he is found to be on the property as an "invitee", a "licensee", or a "trespasser". Whether an occupier of premises is held to owe a duty to take reasonable care for the safety of an entrant either in regard to the state of his premises or to his activities on them, will be decided according to which of these categories of entrant the plaintiff is held by a court to have been at the time he suffered injury to his person or property on the premises.

The Ontario Law Reform Commission in its Report on Occupiers' Liability stated that the categories and corresponding duties were as follows:

1. Invitee — the occupier was liable for unusual dangers on the premises of which he should have known.
2. Licensee — the occupier was liable for traps on the premises of which he knew.
3. Trespasser — the occupier was liable only for harm done by the occupier's intentional or reckless conduct.

The duty of an occupier to contractual entrants, such as ticket-holders, and to entrants as of right, such as building inspectors, has been held to be higher than the occupier's duty in relation to invitees.

One of the first tasks facing a court trying an occupier's liability action is, therefore, to determine into which category of entrant the plaintiff fits. Such a determination often seems remote from the problem of securing justice for the injured party. In a leading recent case Mr. Justice Dickson of the Supreme Court of Canada described the difficulties as follows:

"That branch of the law of negligence having to do with the duty owed to a visitor or an intruder by an owner or occupier of land has long been in an unsettled state, due in part to the Procrustean and often vain attempt in an infinite variety of fact situations to fit a plaintiff neatly into the category of invitee, licensee or trespasser and then allow category to be the conclusive determinant."

In recent years there has been a noticeable tendency in Canadian law to adopt a very flexible attitude towards these categories in the interests of arriving at just results. In particular, the duty owed to a licensee has increasingly been assimilated to the duty owed to an invitee. Thus, the question whether a visitor has conferred an economic benefit on the occupier (an "invitee") or has merely come on the premises with the explicit or implicit permission of the occupier (a "licensee") is less significant now than it formerly was. Furthermore, courts have declared that an occupier of land owes a duty of "common humanity" even to an intruder who is on his land without permission, and that duty of common

humanity may be somewhat higher than the traditional common law duty owed by an occupier to a trespasser.

In a number of jurisdictions, there have been attempts to reform the law relating to occupiers' liability by legislation. The purpose of the legislation is to do away with all or part of the existing law and to replace it by a "common duty of care" owed to entrants onto the premises of the occupier. But a major policy difference has emerged. The English Occupiers' Liability Act of 1957 extends the common duty of care only to "visitors" who are defined as only those persons whom existing law would characterize as invitees or licensees. The Scottish Occupiers' Liability Act of 1960 extends the duty to all entrants on land, including trespassers. The New Zealand statute follows the British model while the draft Act of the Uniform Law Conference of Canada follows the Scottish model (though there are very significant differences in the actual drafting). In 1972 the Ontario Law Reform Commission proposed a draft Occupiers' Liability Act which would place on the occupier of premises "a common duty of care to all persons entering on the premises". The Commission decided after thorough study "to recommend the enactment of legislation which would encompass all types of persons entering lands and premises, regardless of their former categories". Two of the stated purposes of the Commission in presenting the Draft Act were "to restore the field of occupiers' liability to the area of the general law of negligence" and to "widen the areas of recovery, based on the neighbour concept of negligence, and not by the creation of legal fictions".

In Scotland the legislation of 1960 appears to have succeeded in returning the law of occupiers' liability to the general law of negligence. The questions to which a Scottish court must address itself in an action brought under the statute are the usual questions of negligence litigation:

- Was it reasonably foreseeable that the plaintiff would suffer injury by reason of any defect or danger in the state of the premises or in any activity being carried on on the premises?
- Did the occupier take all reasonable steps to see that no one would suffer injury in the circumstances?

— Did the plaintiff contribute to his misfortune by his own negligence?

At the time the Scottish legislation was enacted fears were widely expressed that the potential for liability of occupiers of property would be greatly increased and that the duties placed on occupiers would be burdensome and costly. Nonetheless, the statute appears to be working satisfactorily. It must be remembered that an occupier's duty under the statute is only to do what is reasonable in all the circumstances. What is reasonable in regard to an invited guest may be far more than what is required towards a trespasser. Furthermore, in many cases trespassers are simply not reasonably foreseeable. The law of negligence is flexible and demands that all the facts of a particular case be examined. The standard of what a "reasonable man" would have done in the circumstances, though it is an objective test, will vary according to the actual circumstances of a case.

All the proposed law reform statutes preserve the right of an occupier to limit his liability in respect of entrants on his premises. The Ontario Law Reform Commission stated that its draft statute would "enable an occupier to exclude liability not only by agreement but also, for example, by the exhibition of a notice disclaiming liability for injury . . . ". Of course, all reasonable steps must be taken to bring such notice to the attention of persons who might enter on the land. In addition, an occupier who was sued would still have open to him the defence that the entrant had willingly assumed the risks of coming on the land. All the defences which a defendant in ordinary negligence litigation has open to him are preserved.

In Ontario the uses to which land is put are extremely diverse. In some areas of the province there are vast tracts of unpatented Crown land presently put to very little use. Two of the most significant industries in the province are the mining and lumber industries, both of which involve the use of large tracts of land. Some areas of southern Ontario are heavily industrialized or extensively occupied by commercial enterprises. National and provincial parks cover a significant portion of the province's area. There is much agricultural land in the province, some of it unused or unproductive.

Background Papers

In recent years there has been increasing emphasis on the use of land for recreational purposes. Hiking, snowmobiling, cycling, trail biking, horseback riding, backpacking — these are all activities which have come to be recognized as healthful and beneficial to an increasingly urbanized population. All levels of government — federal, provincial, municipal — have been forced to respond to this demand by opening up land for recreational purposes. There are certain types of land, for example, hydro rights-of-way and corridors, railroad rights-of-way and unused agricultural land which, although privately owned, are extremely suitable for recreational use.

The development of the law in regard to snowmobiles deserves some attention. In 1974 as a result of a decision of the Supreme Court of Canada in a case called *Veinot v. Kerr-Addison Mines Ltd.*, the Ontario Legislature enacted Section 19 of The Motorized Snow Vehicles Act to provide that the duty of care owed by an occupier of land to a snowmobiler on his land who is a "trespasser" or "licensee" is merely a duty "to not create a danger with the deliberate intent of doing harm or damage to the trespasser or licensee or do a wilful act with reckless disregard of the trespasser or licensee". This would seem to be a statutory statement of the duty owed at common law by an occupier to a trespasser. Fears had been expressed that the decision in the *Veinot* case had considerably increased this duty and that owners of vacant land were much more likely to be sued as a result.

Many farmers and owners of agricultural or vacant land apparently feel that under the law as it now stands, while they may be sufficiently protected from liability to snowmobilers as a result of the amendment to The Motorized Snow Vehicles Act, they may still be liable to other recreational users of their land, such as hikers or horseback riders, where these persons suffer damages as a result of some defect in the condition of the land. Whether this is a correct interpretation of existing law or not is largely a moot question at this point. In any event, The Occupiers' Liability Act as proposed by the Ontario Law Reform Commission would not seem to do anything to allay this fear — indeed, the draft statute might appear to increase the potential liability of occupiers to an even greater degree. To many farmers, therefore, the wisest course

appears to be to exclude recreational users from their land altogether so that no possibility of liability can arise. If privately owned land is to be made available for recreational purposes, something must be done by legislation to assure occupiers that they can allow individuals or groups to use their land for recreational purposes while effectively excluding any liability as occupier to those persons (assuming, of course, that no fee is charged for the use of the land). Occupiers of land should be able, voluntarily, to open up their land for all or for certain specified uses to the public but only on the clearly understood condition that persons who enter on the land do so at their own risk.

In addition, the law should provide that an occupier may in some way indicate that he does not wish anyone to come on his land for any purpose and that anyone who disobeys his clearly expressed prohibition does so entirely at his own risk. An Ontario statute called The Petty Trespassers Act allows a landowner or peace officer to arrest, and provides for a fine to be levied against, anyone who trespasses on land that is enclosed (e.g. by a fence or hedge), that is a garden or lawn, or with respect to which he had had notice not to trespass. Notice may be by word of mouth, or in writing, or by posters or signs so placed as to be visible from every point of access to the land. This presents problems for the occupier of large tracts of land which it is impractical to fence, since the only way he can forbid persons to go on his land is by posting appropriate signs. Thus, an occupier who feels that his only protection from liability to entrants on his land is to exclude all persons from coming on the land may have difficulty in taking reasonable steps to accomplish that purpose.

What is needed, therefore, is legislation which would implement the recommendation of the Ontario Law Reform Commission to modernize the law of occupiers' liability and at the same time provide some simple, readily understood way in which owners and occupiers of certain types of land who are not engaged in providing recreational facilities as a business could indicate that their land may be used not at all, for all recreational purposes or for specified recreational purposes only, but, in any case, at the risk of the recreational user. In other words, a farmer or agricultural owner could allow re-

creationalists to use his land while excluding liability on his part.

There have been many complaints by farmers of increased incidents of vandalism and destruction of farm property by persons who use the farmer's property without his permission. This is another problem which must be addressed in devising new legislation.

The Policy Development Division of this Ministry has been working on a legislative scheme which would accomplish all the desired ends. The legislative scheme might include a system of coloured markings with defined meanings combined with approved recreational symbols indicating what uses the occupiers of designated kinds of land were willing to permit and absolving them from liability. This kind of system could be tied into The Petty Trespass Act. The provisions of that Act could also be expanded, so that a person who prosecutes a trespasser under the Act may recover his court costs and even be awarded damages where he is successful in obtaining the conviction of the trespasser.

A legislative scheme to accomplish these objectives is proposed in detail in a White Paper on Occupiers' Liability which has been published by this Ministry. Such legislation could go a long way towards resolving the conflicts of various interests which are at issue in the law of occupiers' liability.

Appendix

Acts Administered by the Ministry of the Attorney General

Absconding Debtors Act
Absentees Act
Accidental Fires Act
Accumulations Act
Administration of Courts Project Act, 1975
Administration of Justice Act
Age of Majority and Accountability Act, 1971
Aliens' Real Property Act
Anti-Inflation Agreement Act, 1976
Arbitrations Act
Architects Act
Assessment Review Court Act, 1972
Assignments and Preferences Act

Bail Act
Barristers Act
Blind Persons' Rights Act, 1976
Bulk Sales Act
Business Records Protection Act

Change of Name Act
Charitable Gifts Act
Charities Accounting Act
Children's Maintenance Act
Commissioners for Taking Affidavits Act
Compensation for Victims of Crime Act, 1971
Constitutional Questions Act
Conveyancing And Law of Property Act
Costs of Distress Act
County Court Judges' Criminal Courts Act
County Courts Act
County Judges Act
Creditors' Relief Act
Crown Administration of Estates Act
Crown Agency Act
Crown Attorneys Act
Crown Witnesses Act

Dependants' Relief Act
Deserted Wives' and Children's Maintenance Act
Devolution of Estates Act
Disorderly Houses Act
Dominion Courts Act
Dower Act

Escheats Act
Estreats Act
Evidence Act
Execution Act
Expropriations Act
Extra-Judicial Services Act

Factors Act
Family Law Reform Act, 1975
Fatal Accidents Act
Fines and Forfeitures Act
Fraudulent Conveyances Act
Fraudulent Debtors Arrest Act
Frustrated Contracts Act

Gaming Act
General Sessions Act

Habeas Corpus Act
Hospitals and Charitable Institutions Inquiries Act
Hotel Registration of Guests Act

Infants Act
Innkeepers Act
Interpretation Act

Judges' Orders Enforcement Act
Judicature Act
Judicial Review Procedure Act, 1971
Juries Act, 1974
Justices of the Peace Act

Landlord and Tenant Act
Law Society Act
Legal Aid Act
Legitimacy Act
Libel and Slander Act
Limitations Act
Lord's Day (Ontario) Act

Married Women's Property Act
Master and Servant Act
Matrimonial Causes Act
Mechanics' Lien Act
Mental Incompetency Act
Mercantile Law Amendment Act
Ministry of the Attorney General Act (formerly
Department of Justice Act)
Minors Protection Act
Mortgages Act
Municipal Conflict of Interest Act, 1972

Negligence Act
Notaries Act

Ontario Law Reform Commission Act
Ontario Municipal Board Act

Parents' Maintenance Act
Partition Act
Partnerships Act
Pawnbrokers Act
Perpetuities Act
Petty Trespass Act
Powers of Attorney Act
Proceedings Against the Crown Act
Professional Engineers Act
Property and Civil Rights Act
Provincial Courts Act
Public Accountancy Act
Public Authorities Protection Act
Public Halls Act
Public Inquiries Act, 1971
Public Institutions Inspection Act, 1974
Public Officers Act
Public Officers' Fees Act
Public Trustee Act

Quieting Titles Act

Reciprocal Enforcement of Judgments Act
Reciprocal Enforcement of Maintenance
Orders Act

Regulations Act
Religious Institutions Act
Replevin Act

Sale of Goods Act
Seduction Act
Settled Estates Act
Sheriffs Act
Short Forms of Conveyances Act
Short Forms of Leases Act
Short Forms of Mortgages Act
Small Claims Courts Act
Solicitors Act
Statute of Frauds
Statutes Act
Statutory Powers Procedure Act, 1971
Summary Convictions Act
Surrogate Courts Act
Survivorship Act

Ticket Speculation Act
Time Act
Trustee Act

Unconscionable Transactions Relief Act
Unified Family Court Act, 1976
University Expropriation Powers Act

Variation of Trusts Act
Vendors and Purchasers Act
Vexatious Proceedings Act
Vicious Dogs Act

Wages Act
Warehousemen's Lien Act
Warehouse Receipts Act
Wills Act

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Ministry of the
Attorney
General

Government
Publications

annual
report
1977-78

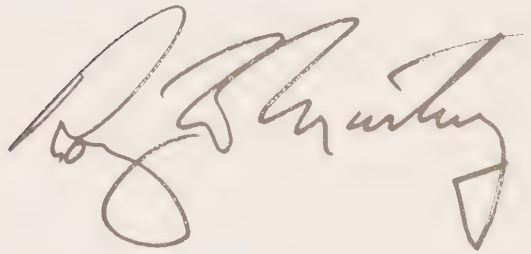


NORTHUMBERLAND COUNTY COURT HOUSE,
COBOURG

To Her Honour the Lieutenant Governor in
Council

May it please Your Honour:

It is my pleasure to present to your Honour
the Annual Report of the Ministry of the
Attorney General for the year 1977-78.

A handwritten signature in dark ink, appearing to read 'R. Roy McMurtry'. The signature is fluid and cursive, with a large loop at the end.

The Honourable R. Roy McMurtry, Q.C.
Attorney General



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The Stephen Britton Osler drawings throughout this report are from the Ontario Court Series, a limited-edition series produced by D.G. Dorrell International Inc. for Legal Art.

Letter from the Deputy Attorney

November 15, 1978.

The Honourable R. Roy McMurtry, Q.C.,
Attorney General for Ontario,
18th Floor, 18 King Street East,
Toronto, Ontario.

Dear Mr. Attorney,


In accordance with the provisions of section 7 of The Ministry of the Attorney General Act, I am pleased to be able to present the Ministry's Annual Report.

To the outside observer, the year has been one of profoundly important law reform. The enactment of the Family Law Reform Act and its accompanying legislation potentially affects the lives of all in Ontario. The whole of the law and procedure governing provincial offences is rationalized by the Provincial Offences Bill recently introduced.

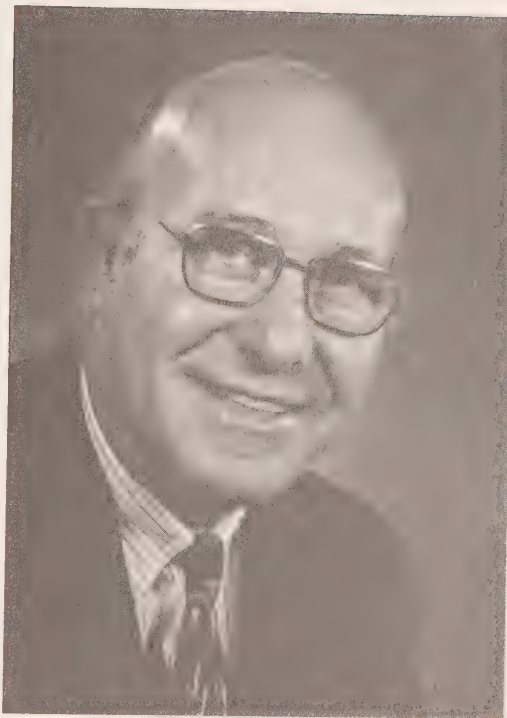
We have also taken important steps to improve access to justice. The extension of French language trials, the inauguration of a comprehensive program to translate statute law into French, and the simplification of court procedures all contribute to this general end.

For many, this has also been a year of constraint, a year in which burgeoning caseloads and budgetary restrictions have placed difficult demands on the whole Ministry. That we have been able to respond as we have is evidence of the quiet efficiency of a dedicated team of men and women working across Ontario, to run the operations of the Ministry and serve the public. This report, which records what they have achieved, is at the same time a tribute to their industry, imagination and dedication.

All of which is respectfully submitted.

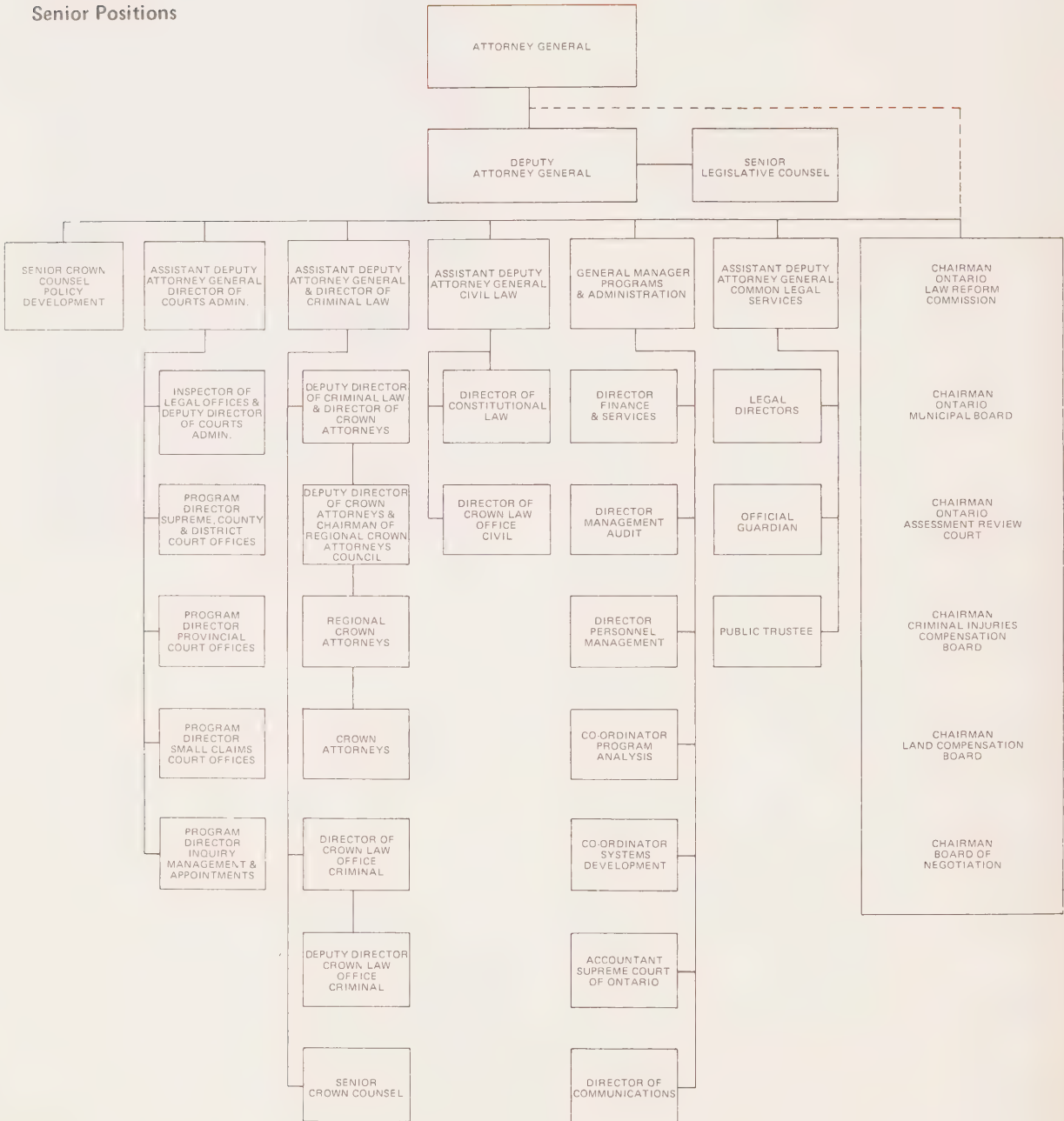


H. Allan Leal, Q.C.,
Deputy Attorney General.



The Ministry of the Attorney General

Senior Positions



Office of the Legislative Counsel

Arthur N. Stone, Q.C.,
Senior Legislative Counsel

This office consists of eight lawyers, eight clerks and four legislative editors.

The duties and responsibilities of the Office include:

1. Drafting all bills and regulations.
2. Advising and assisting the government, Cabinet ministers, members and committees of the Assembly on all legislative matters.
3. Preparing and overseeing the printing of the annual volume of statutes.
4. Maintaining public files of regulations and publishing the regulations.
5. Maintaining updated proofs of statutes and regulations.

Number of Regulations Drafted and Filed

	1974	1975	1976	1977
Drafted	1152	1216	1230	1156
Filed	1001	1049	1021	975
Published pages in Gazette	1767	2457	1717	1797

Program of Operations for the Fiscal Year 1978-79

The office will assume responsibility for the translation and publication of statutes in the French language.

Number of Bills Drafted, Introduced and Passed

	1974	1975	1976	1977
Government bills —				
Drafted	225	191	151	206
Introduced	145	115	101	127
Passed	137	110	87	70
Private bills —				
Introduced	31	32	26	57
Passed	31	31	24	43
Private member's bills —				
Drafted	72	79	104	96
Introduced	58	83	95	80
Passed	0	0	0	1
Number of pages in statute book	1650	1100	895	1010

The Ministry of the Attorney General

Policy Development Division

John Cavarzan,
Senior Crown Counsel

The Division

At present the Division, which consists of Senior Crown Counsel and six lawyers, reports to and is directly supervised by the Deputy Attorney General.

Present Duties

The duties of the division include:

1. Studying and analyzing all aspects of the administration of justice in Ontario.
2. Continual review of the 133 statutes administered by the Ministry (see appendix), proposing reform and analyzing suggestions for reform from the Ontario Law Reform Commission, the public, lawyers, other ministries and members of the Legislature.
3. Developing the legislative program of the Ministry, beginning with discussion of suggested legislation with senior staff members of the Ministry, preparing Ministry policy submissions outlining the problems and evaluating all government options for discussion and decision-making by the justice committee of Cabinet and by Cabinet. This process concludes with counsel from the division assisting Legislative Counsel to create draft bills reflecting Cabinet decisions.
4. Advising the Attorney General and Deputy Attorney General during the legislative progress of a bill. This generally involves attending the Legislative Assembly with the Attorney General to advise him about the bill, if necessary, and to help him answer detailed technical questions which may arise during debate.

The division is also responsible for the Ministry Library, which serves the Crown Law Office and (about 50) field offices.

Relationship with Other Organizational Units

To do its job, the division must have close relationships with a number of organizational units both within the Ministry and independent of it. There is constant liaison and co-operation with the Crown Law Office. Through these efforts some projects are conducted jointly and duplication is avoided. The Policy Development Division maintains a

co-operative relationship with the Ontario Law Reform Commission. While the independence of the Commission is at all times recognized and respected, there is an exchange of research material and ideas.

There is constant demand for interaction with other ministries and policy fields, with the federal Department of Justice, and with public interest groups. The division's involvement enables it to keep abreast of many activities and proposals which may affect the administration of justice in the province.

Examples of Activity

Legislation

Thirteen years of detailed research and development in the field of family law in Ontario, four of them in this division, were culminated by the enactment of three major statutes:

1. The Family Law Reform Act, 1978 (first introduced as a Bill in substantially the same form in 1976 and reintroduced as a Bill in 1977). The Act is a comprehensive reform of family law in the areas of family property and family support obligations. It provides, among other things, for: division of family assets on matrimonial breakdown; the rights of spouses to possession of the matrimonial home; support obligations for spouses, children, parents and dependant "common law spouses"; marriage contracts, separation agreements and cohabitation agreements; claims by dependants against a person whose fault or neglect has resulted in the injury or death of a family breadwinner.
2. The Children's Law Reform Act, 1977 (previously introduced as a Bill as The Children's Law Reform Act, 1976). The Act abolishes the legal distinction between legitimate children and illegitimate children and provides that a person is the child of his, or her, natural parents (adoption excepted). The Act also provides judicial procedures for establishing paternity and creates presumptions of paternity to assist children to enforce their legal rights to support and property.
3. The Succession Law Reform Act, 1977 (previously introduced as a Bill in substantially the same form in 1976). The Act is a comprehensive reform of testate and intestate succession which, among other things, provides for: holograph wills; an international form of will; a new order of

distribution of an estate among kin upon the death of a person who has not made a will; new rules for distributing property of persons whose estates are interconnected and who die in circumstances making it impossible to determine who died first; the designation of beneficiaries in retirement and pension plans; application to a court to ensure the support of dependants of a deceased person where a will, or the system of distribution where there is no will, do not adequately provide.

Other Legislation Relating to Family Law Reform:

4. The Marriage Act, 1977 (previously introduced as a Bill in 1976). The Act revised the existing Marriage Act in accordance with recommendations of the Ontario Law Reform Commission and made other improvements.

5. The Land Titles Act, The Registry Act, The Trustee Act, The Surrogate Courts Act, and The Provincial Courts Act were all amended to ensure the effectiveness of substantive family law reform.

Other Important Legislation Developed by the Division:

6. The Judicature Amendment Act, 1977, provides for interest between the time a cause of action arises and the trial. These provisions were needed to create incentive to settle cases and, where settlement is impossible, to speed their trial. The legislation also creates a cause of action for unreasonably obtaining and registering a certificate of pending action, a court procedure which was being abused.

7. The Small Claims Court Amendment Act, 1977, raised the jurisdiction of the court to \$1,000 throughout Ontario. It also removed the requirement to prove a case using the formal rules of evidence, abolished pre-trial garnishment and established the Office of Small Claims Court Referee.

8. The Highway Traffic Amendment Act and The Negligence Amendment Act removed the necessity for an injured gratuitous passenger to prove the driver guilty of gross negligence before recovering damages. Only negligence need now be proven.

The division was deeply involved in the drafting of rules and forms for the Unified Family Court and, in connection with family law reform, assisted both the Rules Committee of the Provincial Court

(Family Division) and the Rules Committee established under The Judicature Act in the drafting of new rules and forms.

The division was also required to monitor and comment upon Private Members' Bills dealing with aspects of this Ministry's responsibility. Under the new rules of the Legislative Assembly, Private Members' Bills have a greater possibility of being enacted and, therefore, considerable time must be spent in analyzing them.

Studies, Papers, Consultation

1. A Discussion Paper on a proposed Limitations Act was prepared and distributed by the division. The Paper includes a draft proposed Limitations Act and requests the comments and suggestions of the general public and the legal profession, in order to ensure the soundness of the proposed new legislation.

2. Counsel in the division worked with senior civil servants in the Ministries of Consumer and Commercial Relations and Housing in the preparation of a booklet, Policy Options for Continuing Tenant Protection. The booklet describes the historical development of rent review, residential tenancy legislation and housing policies. It then sets out a range of options for future legislation to deal with these subject areas. The purpose of the booklet is to focus public discussion so that there can be maximum public participation in the dialogue which will precede new legislation.

3. A lawyer of this division was a member of the Attorney General's Committee on Representation of Children. Members of the division have been appointed to various interministerial committees and have attended conferences on behalf of the Ministry.

4. The division continued its development of legislation to deal with problems regarding the liability of occupiers of land to people entering onto the land and the problems of enforcing occupiers' rights against trespassers. The objective is to protect the legitimate interests of private owners of non-industrial and non-commercial land, while encouraging them to permit greater recreational use of their land.

5. The division is preparing an explanatory booklet on The Small Claims Courts to assist non-lawyers in using these courts.

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6. The division participated in the drafting of a Provincial Offences Act, and has produced a booklet, *Provincial Offences Procedure: An Analysis and Explanation of Legislative Proposals*, to be published in April, 1978. The new procedures are the product of several years of intensive development. Many persons living in Ontario find the procedure which now governs the prosecution of provincial offences bewildering, expensive, time consuming and altogether disproportionate in gravity to those offences. This situation is redressed by the proposed Act which creates a clear, self-contained, procedural code to simplify procedures, eliminate technicalities, enhance procedural rights and protections, and remove the obstacle of delay from the assertion of rights and the conclusion of prosecutions. In addition, the Act promotes the replacement of jailing persons who do not pay their fines with effective means for collecting those fines.

Uniform Law Conference of Canada

The conference consists of commissioners and other participants from all provinces, the territories and the federal Government who meet annually to consider reports and proposed statutes aimed at securing greater uniformity in the law of all jurisdictions in Canada.

The division has increasingly taken on work generated by this conference. This year the division has worked with legislative counsel to draft a Uniform Powers of Attorney Act to present to the conference. The division has also prepared a report on declarations of paternity and materials regarding prejudgment interest.



Osgoode Hall, Toronto

Courts Administration Division

Brian W. McLoughlin,
Assistant Deputy Attorney General
and Director of Courts Administration

Mr. B.W. McLoughlin was appointed Assistant Deputy Attorney General and Director of Courts Administration effective from February 7, 1978.

Mr. M.S. Fitzpatrick was appointed Inspector of Legal Offices and Deputy Director of Courts Administration on February 15, 1978.

The Courts Administration Division was re-organized in February and the current composition of the Division is reflected in the Organization Chart of February 10, 1978.

Responsibilities

The Assistant Deputy Attorney General and Director of Courts Administration is responsible for the general administration of the courts in Ontario including:

- regulating the appointments of commissioners for taking affidavits, notaries public and justices of the peace;
- provision of court reporting for all courts and supervision of court reporters and special examiners;
- ensuring the provision of adequate administrative services to all courts, including direction to sheriffs and court registrars, Criminal and Family Court administrators, Small Claims Court clerks and bailiffs;
- liaison with the Ministry of Government Services and the responsibility for court accommodation;
- French Language Services in the courts;
- maintaining liaison between the Ministry of the Attorney General and the judiciary, and the processing of judicial appointments to the Provincial Courts;
- overseeing the Ministry's interest in the Native Courtworker Program.

French Language Programs

Legislative Amendments

In May of 1978 the Legislature gave approval to Bill 71, an Act to amend the Judicature Act, and

Bill 72, an Act to amend the Juries Act, 1974. This important new legislation enables the Ministry of the Attorney General to further expand its French language court services.

The amendment to the Judicature Act provides for the official designation of courts and of Counties and Districts in which French-speaking residents may elect to testify in French and to have their evidence directly received and understood by the court without it being relayed through an interpreter. It is anticipated that such proceedings will be bilingual, but provision has been made for unilingual French proceedings where circumstances warrant.

The amendment to the Juries Act enables the selection of bilingual jurors.

French Language Services in Provincial Court (Criminal Division)

French language services are now available in the Provincial Court (Criminal Division) in Sudbury, Espanola, Ottawa, L'Orignal, Hawkesbury, Rockland, Cochrane, Kapuskasing, Hearst, Smooth Rock Falls, and Hornepayne. Thus, French court services are now available to approximately 66 per cent of Ontario citizens who speak French only.

It is anticipated that further expansion will be undertaken in the Cornwall area in the near future.

French Language Services in Provincial Court (Family Division)

French language services are now available in the Provincial Court (Family Division) in Sudbury and in Ottawa. Planning is underway for further expansion.

French Language Services in Supreme, County & District Courts

With the recent amendments to the Judicature and Juries Acts, planning is underway for the provision of French language services in the Supreme, County and District Courts in specified, designated areas.

Forms Program

The forms program relating to the Provincial Courts, both Criminal and Family Divisions, has been expanded to provide some 40 forms in a bilingual format. These include the vast majority of forms which the public normally sees or receives during the course of contact with the Provincial Court

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(Criminal Division) or the Provincial Court (Family Division).

The questionnaire as to qualifications for jury service is now available in a bilingual format, and is distributed in the designated bilingual areas.

Human Resources

The Ministry is currently reviewing the human resources available for the appropriate and effective implementation of the French language programs in the courts and is taking steps to ensure that suitable resources are available.

Supreme, County and District, and Surrogate Court Offices

R.W. Schurman,
Director

The director provides administrative direction for Supreme, County and District, and Surrogate Court offices. In liaison with the regional co-ordinators he develops and implements policies of the Ministry relating to procedures and training programs.

Standard procedures have been developed to help the offices process an ever-increasing volume of litigation. Other changes, particularly in case-flow management, are being assessed to ensure that persons using the court system are adequately served.

During the past year, in addition to the regular regional seminars, instructional seminars were held in all areas for officials and their deputies, and for all staff members. These seminars were designed to meet the growing need for more uniformity of practice within all offices.

The educational seminars, begun in 1976, are being continued under the guidance of the Regional Co-ordinators, and have been extended to include all staff members in all of the offices. Nine separate seminars have been held for the court staffs in strategic areas of the province. As well, the co-ordinators continue to initiate studies into all phases of Sheriffs' and Court Registrars' responsibilities.

Court Reporting

Tom Moran,
Co-ordinator

Court Reporting

The co-ordinator is responsible for the provision of administrative control of all court reporting functions in the Province, including the development and implementation of approved policies relative to all levels of court reporting, including special examinations and certain boards and commissions.

The co-ordinator is also responsible for the establishment of reporting standards, the development of reporter training programs, the provision of direction and support to the offices of Special Examiners in Toronto, Ottawa, Hamilton, St. Catharines, Windsor and Timmins and the provision of competent reporting services to maintain acceptable standards.

Methods of Reporting

There are currently 370 court reporters on staff; 120 shorthand reporters, 39 stenotype reporters, 153 stenomask reporters and 58 court monitors (using electronic recording systems). In addition there are approximately 220 freelance reporters available on a part-time basis.

Central or archival recording systems are now operational in Barrie, Windsor, London, Ottawa, Brampton and Hamilton. With this system an independent record is made of the court proceedings onto a master tape for archival storage while the reporter produces the 'in-court' record for transcription purposes.

Training and development of competent court reporters continues to receive priority and as a result George Brown College, in 1976, expanded its reporter training program to include a one-year course in the stenomask system. A number of successful graduates, both shorthand and stenomask, have joined our staff since the implementation of this program.

Courts and Office Accommodation Planning

Bill Thomson,
Administrator

Administration

The Ministry, during the 1977/78 fiscal year, has actively pursued its program of upgrading and expanding existing court and office accommodations as well as providing much needed additional court facilities throughout the province.

Projects Completed

In Kitchener, the Provincial Courts, both Criminal and Family Divisions, were relocated from the County Court House to the newly-constructed Registry Office and provided with much needed expansion space. The Provincial Court (Family Division) in Brampton was provided with new quarters which included one additional courtroom, also in the new Registry Office adjacent to the existing Peel County Court House. This move provided expansion space in the County Court House for the County Court and support facilities.

In Dryden, where the Provincial Courts were previously fragmented, having offices in one location and a courtroom in the OPP detachment, new facilities were provided in the recently-opened Government Consolidated Building.

An additional courtroom was provided in the Simcoe Court House and renovations were undertaken in the Court House in Cayuga. In London, Courtroom #14, provided as expansion space during the initial construction, was completed. The Provincial Court (Criminal Division) at 125 Main Street, Hamilton, was provided with an additional courtroom, Judge's Chamber, Crown Attorney's offices and support facilities. A former OPP detachment in Fort Erie was renovated to provide a courtroom, Judge's Chamber, Crown Attorney's office, interview rooms and public areas for the Provincial Courts (Criminal Division). Three new courtrooms and support facilities were constructed as the first phase of the newly-established Unified Family Court in Hamilton.

The court facilities in St. Thomas, Welland and Penetanguishene were also renovated. New leased

premises were provided for the Crown Attorney in Timmins as well as for the Provincial Court (Criminal Division) in Brampton. The Provincial Court (Family Division) in Orillia, which had shared facilities with the Provincial Court (Criminal Division), was relocated to new leased quarters to allow for expansion of the Criminal Division. The Criminal Injuries Compensation Board, the Board of Negotiation and the Assessment Review Court were all relocated at the expiry of their previous leases.

In order to centralize space provided for Royal Commissions and to eliminate the necessity of leasing premises for each Commission upon its inception, new premises were leased at 180 Dundas Street West, as a permanent location for Royal Commissions in Metro Toronto. This space is occupied by five Commissions.

In Cobourg, the Provincial Courts, both Criminal and Family Divisions, were provided new leased facilities in the recently-restored Victoria Hall.

In keeping with the Metro decentralization program, new interim facilities were leased in Etobicoke for eight Provincial Court (Criminal Division) courtrooms and four Traffic Courtrooms in a Traffic Tribunal; in Scarborough, five Provincial Court (Criminal Division) courtrooms, a Traffic Tribunal with four courtrooms and two Provincial Court (Family Division) courtrooms were provided; in North York, seven Provincial Court (Criminal Division) courtrooms and a Traffic Tribunal with five courtrooms were provided as well as two additional courtrooms being added to the existing Traffic Tribunal. The addition of the Etobicoke courtrooms allowed for the conversion of the existing courtrooms on Keele Street to a three-courtroom Traffic Tribunal.

In Ottawa, a new ground-floor courtroom was provided for the Provincial Court (Criminal Division) and, in Sudbury, an additional courtroom and Judge's Chamber was provided for the Provincial Court (Family Division).

The Brampton and Mississauga Small Claims Courts were relocated to interim facilities to provide additional space in the Peel County Court House.

Under Construction

Construction work underway at the County Court Houses in Windsor will provide additional courtrooms and support facilities for the County and

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The Ministry, as part of its program to decentralize Provincial Court operations in Metropolitan Toronto, leased premises at 1911 Eglinton Avenue in Scarborough (above) and at the East Mall in Etobicoke (below). The Scarborough facility contains five Criminal Division courtrooms, two Family Division courtrooms and four Traffic Tribunal courtrooms. Eight Criminal Division courtrooms and a four-courtroom Traffic Tribunal are in operation in Etobicoke.



District Courts. At Milton, an extension to the existing building will provide additional Provincial Court (Criminal Division) facilities.

In Newmarket, a 22-courtroom Court House to accommodate County and District, Provincial Courts (Criminal and Family Divisions) is well underway. Additional holding facilities are being built for the Provincial Court (Criminal Division) at 125 Main Street, Hamilton, and a new central air conditioning system is being installed at Haileybury County Court House.

In Planning

Designs are being developed for new 22-courtroom Court Houses in Scarborough, North York, Etobicoke and St. Catharines. Renovations are being planned to accommodate the County Courts in the space vacated by the Provincial Court (Family Division) in the Kitchener County Court House, and new space for Small Claims Court and Crown Attorneys is under design in the newly-completed Brampton Registry Office. In Belleville, the Provincial Court (Criminal Division) will be provided with expansion space following relocation of the Provincial Court (Family Division). Plans are underway for the second phase of the Unified Family Court in Hamilton; the expansion of the Jury Room and relocation of the Small Claims Court in the Peterborough County Court; the completion of an additional courtroom and Judge's Chambers on the third floor of the Whitby County Court House; an additional courtroom for the Provincial Court (Criminal Division) in the Sudbury Court House; the relocation of the Provincial Courts (Criminal and Family Divisions) in Pembroke; new quarters for the Crown Attorney's Offices in Windsor; the relocation of the Provincial Courts (Criminal and Family Divisions) in Guelph; the provision of 10 additional Provincial Court (Criminal Division) courtrooms at College Park (Eaton's) to relieve the overburdened Old City Hall; an additional courtroom for the Provincial Court (Family Division) in Etobicoke and the renovation of the existing Provincial Court facilities in Stratford to provide more adequate space to the Provincial Court (Family Division).

Provincial Court Offices

Alex Mackay,
Director

The administrative staffs of the Provincial Court Offices provide clerical and stenographic support for the judiciary, serve the public and other court users and are responsible for accounting, document preparation and related duties required by the Ministry.

Staffing constraints have created a great deal of pressure on the administration as the caseload continues to increase without additional resources being available. The Criminal Division experienced an increase of 5.5 per cent over the previous year, representing an increase of 176,753 dispositions and bringing the total to 3,388,611 for the year. Revenues increased to \$64,475,593, from \$58,618,577 in the previous year.

It is obvious that changes will have to be made to allow the administration to cope with the large volume of cases. The Honourable R. Roy McMurry, Attorney General, is presently drafting new legislation (The Provincial Offences Act) which will provide better processing methods for summary conviction cases. The Ministry has received the approval of Management Board to proceed in Oshawa with a mini-computer project designed to provide case recording, accounting and docket preparation for the Criminal Court. This project will determine the capability of this type of system in courts administration and also the cost/benefit to the Ministry.

The Family Division caseload remains relatively consistent with the previous year with a substantial increase in enforcement of maintenance orders and a reduction in charges under the Juvenile Delinquents Act. The implementation of the Family Law Reform Act on the last day of the fiscal year does not permit any statistical data on the new legislation but there is no doubt that it will have an effect on the administration of the Family Court.

In anticipation of the new Family Law Reform Act, Chief Judge Andrews and his staff provided an extensive training program for the Court Administrators and intake workers. Regional meetings were held and the course content was found to be very beneficial to all participants.

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Management Training

The Ministry has continued its management training program as provided by Sheridan College and, through the training staff of the Personnel Branch, has encouraged many other employees to participate in courses which will upgrade their skills.

The following are the courses and the number of staff who attended:

Management Workshop	104
Personal Dynamics for Managers	84
Management by Objectives	2
Management of Time	1
Management Workshop (Civil Service)	4
Problem Employee Seminar	3
Lifework Planning	1
Assertiveness Training	3
Communications Workshop	1
Effective Writing	1
Public Speaking	1
Support Staff Seminar	18
Transactional Analysis	5
Total	<u>228</u> Employees

In addition, 35 staff members are furnished tuition assistance for courses at various Colleges and Universities.

Small Claims Court Offices

Ron McFarland,
Director

Function

The Director of the Small Claims Courts provides administrative direction to the 128 court offices throughout the Province. The Director is responsible for the planning and preparation of reports on the needs, both Judicial and Administrative, of the courts and for filling staff vacancies. The Director advises court officials on procedures, the interpretation of amendments, and the updating of the Manual of Administration.

Activity

In November, 1977, the monetary jurisdiction of the courts was raised to \$1,000 throughout the

Province. This major change has increased the level of activity in the courts. It is estimated that the number of claims will increase some 25 per cent during the calendar year 1978. Throughout the year, there will be a continued review of the courts, particularly relating to any backlog of disputed matters requiring trial dates.

Procedures, Forms

During 1977, a review was made of all forms and basic procedures in the courts. It is expected that by the end of 1978, standardized forms will be approved.

New Initiatives

The Small Claims Courts are one of the most important but least-known segments of the court system in Ontario. To make the public more aware of this informal and relatively-inexpensive system for settling disputes over goods and services, pamphlets and booklets describing the functions of and procedures in these courts were distributed throughout the Province. (Supermarkets, Libraries, Court Offices and so forth)

Along with the new emphasis being placed on the courts is an in-depth review of the present Small Claims Courts Act. The prime objective is to streamline procedures and suggest amendments to make the courts responsive to the changing needs of the public. Training seminars will be held throughout the Province to assist the Ministry and the Small Claims Courts Clerks and Bailiffs to better serve the public.

Inquiry Management and Appointments Branch

Peter Clendinneng,
Director

The Inquiry Management and Appointments Branch has two primary responsibilities. One is the co-ordination and direction of the logistical support of Royal Commissions, Judicial Inquiries, and Task Forces by the Ministry of the Attorney General. The second is the appointment and administration of the Justice of the Peace, Notary Public, and Commissioner for taking Affidavits programs, together with the responsibility for drafting all the Ministry's Recommendations to Council. In addition, this Branch administers the

Blind Persons Rights Act and the Public Institutions Inspection Act.

With the establishment of this new Branch in the latter part of the 1977/78 fiscal year, it is planned to introduce some fundamental modifications to the administrative, co-ordinating and reporting relationships within these areas. The primary objectives will be to support the development of improved financial administrative program management for Royal Commissions, Judicial Inquiries, and Task Forces, and to develop and present revised guidelines and policies for the appointment of Justices of the Peace, Notaries Public, and Commissioners for taking Affidavits. In addition, initiatives are being taken to effect better utilization of Public Institutions Inspection Panel reports.

Provincial Court (Criminal Division)

Chief Judge F.C. Hayes

Court Sitzings

The Provincial Courts (Criminal Division) continued to deal with a heavy caseload and to attempt to maintain a reasonable period from the date of offence to the final disposition of the matter. In this regard, it is necessary to maximize the use of available judicial personnel, facilities, and time, and some of the procedures which are being utilized are as follows:

- Continual assessment of the caseload followed by relevant revisions to court sittings and Judges' assignments;
- Institution of specialized court lists;
- Review of court sittings in heavy caseload areas and re-allocation of judicial resources to make more sitting days available for relief work, lengthy trials or preliminary hearings;
- Increased use of Justices of the Peace in all areas for the trial of minor liquor and traffic offences and for the adjournment of some criminal matters;
- A recommendation to the Ministry for an increase in the number of judicial personnel, based on locating the additional personnel in central locations so as to provide assistance to adjoining areas.

The Chief Judge's office is continuing with the development of a program to obtain some uniformity in the time between the laying of an Information and the return date for the accused to appear.

The statistical analysis representing the caseload is only a partial assessment of the problem. Over the past few years, there has been a very discernible change in the nature of the caseload in that there are many lengthy criminal prosecutions, be they trials or preliminary hearings, and this has been reflected in the special assignment of Judges to various areas of the Province to deal with matters which could not be accommodated in the ordinary court list.

In Metropolitan Toronto, the number of courtroom days allocated to special criminal prosecutions (i.e., cases occupying one day or more) increased slightly from 757 in 1976-77 to 772 in 1977-78. Special matters being prosecuted by representatives of the Federal Department of Justice accounted for 136 courtroom days in 1977-78. Special matters being prosecuted by Provincial Assistant Crown Attorneys accounted for 590 courtroom days in 1977-78, being an increase of approximately 27 per cent over the figure for 1976-77. The movement of Judges from Metropolitan Toronto to other areas for special relief increased from 263 days in 1976-77 to 418 days in 1977-78, an increase of approximately 58.93 per cent.

The demand continued for the Court to attend in remote communities in Northwestern and Northeastern Ontario, and this demand was met in most instances by scheduling special sittings.

The Ontario Provincial Police are policing approximately 22 reserves in Northwestern Ontario and an increasing number of reserves in Northeastern Ontario. This level of law enforcement has led to a greater number of charges and we have been unable to respond to all the demands for additional sittings in various areas of Northwestern Ontario. Some court locations have been re-assigned to other Judges but this will not entirely serve the needs of the area.

The fiscal year 1977-78 saw the introduction of trials in the French language in courts in Ottawa, Hearst, Kapuskasing, Smooth Rock Falls, Hornepayne and Espanola.

In this fiscal year, new enlarged facilities were

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made available in three suburban locations in Metropolitan Toronto for the trial of criminal matters. Groups of Judges have been assigned to these locations on a continuing basis. The additional facilities and the consistent use, where possible, of the same judicial personnel have assisted in reducing the time period for the disposition of criminal charges. If additional judicial personnel and supporting administrative staff are provided, we will be able to make further use of the additional facilities and thereby further reduce the disposition period for criminal charges.

Traffic Tribunal

The traffic tribunal concept, outlined in previous Annual Reports, was extended during this fiscal year to include three additional suburban locations in Metropolitan Toronto, and traffic tribunals are now available to the Metropolitan Toronto public in North York, Etobicoke, Scarborough and at 2265 Keele Street.

In Metropolitan Toronto, this tribunal concept has also been expanded to include cases involving accidents and/or personal injury where a licence suspension is not a possible part of the penalty.

Judicial Appointments

	1973	1974	1975	As of Mar. 31 1976	As of Mar. 31 1977	As of Mar. 31 1978
Provincial Judges in Ontario (Criminal Division)						
Number of Full-time Judges as of December 31	108	118	117	117	128	129
Number of Judges Retired or Deceased or on L.T.I.P.	7	5	6	6	5	8
Number of Judges Appointed	7	15	5	7	15	8
Number of Part-time Judges	2	2	2	2	2	2
Number of Judges on Extension	5	5	6	6	4	6

As of October, 1977, eight of the above Judges were also presiding in the Family Division.

Provincial Judges in Metropolitan Toronto

Number of Full-time Judges, including Chief Judge, as of December 31	23	28	29	28	36	34
Number of Judges Retired, Deceased or Resigned	0	0	0	1	0	2
Number of Judges Appointed	1	5	1	1	8	0
Number of Judges on Extension	2	2	1	2	1	2

The above shows only Metropolitan Toronto. To calculate figures for the Judicial District of York, it will be necessary to add one full-time Judge — Judge R.G. Pearse — and to show one resignation — Judge C.W. Morrison — in 1975.

Traffic Court Sittings

In an effort to improve the scheduling for the trial of traffic cases, the sittings of the court have been revised in certain areas so as to provide sittings at 9 a.m., 10:30 a.m., 1:30 p.m. and 3 p.m. This means the citizen who is charged, and all necessary witnesses, are required to attend at the court premises for not more than 1½ hours. In addition, it serves to make more intensive use of the physical facilities.

This particular method of scheduling sittings of a Traffic Court is particularly suited to areas having a higher volume of charges. At the present time, the four-tier system of sittings of the Traffic Court has been introduced in all of Metropolitan Toronto and in Brantford, Kitchener and St. Catharines and will, in the coming fiscal year, be introduced in Hamilton, Ottawa and Richmond Hill.

Court Visitations

The Chief Judge continued his visits to a number of areas of the Province where he met with the Area Senior Judges and with the Provincial Judges. The Area Senior Judges also continued to hold their regional meetings, and the Chief Judge attended these meetings wherever possible.

In all meetings there has been a continuing study of the local criminal and provincial statutory offence caseload and various alterations have been made to case scheduling methods in order to achieve an earlier disposition date and a more efficient use of judicial personnel, administrative personnel and physical facilities.

Judicial Education

The office of the Chief Judge continued to review judgments of the Court of Appeal and law reports and to circulate matters of interest to the Judges. The Law Clerk assigned to the staff of this office assisted in preparing appropriate annotations for recently reported judgments and in carrying out research in areas of criminal law relevant to the Provincial Court (Criminal Division), including rendering assistance to Judges in their preparation of judgments.

The Judges University Education Program was held at the University of Western Ontario. This program permits a Judge, once every three years,

to live for one week in a university setting and to participate in a program of lectures, discussions and video-tapes.

The Provincial Judges Association (Criminal Division) carried on an active program of regional education and sentencing seminars.

Justices of the Peace Education Program

The Justices of the Peace Continuing Education Program completed its fifth year of operation as of March 31, 1978. As part of this program, each active Justice of the Peace received papers on various topics, a Justice of the Peace Handbook containing selected statutes, and a copy of the Criminal Code.

The program for this fiscal year was carried on over a period of two days at each of 10 locations throughout the Province.

In addition, efforts are made to keep the Justices of the Peace informed, through the Provincial Judges, of relevant amendments to legislation.

Statistics

The statistical reports indicate that for the area outside Metropolitan Toronto, the number of new charges in the system under all statutes rose from 1,627,309 in 1976-77 to 1,873,826 in 1977-78, an increase of 15.14 per cent.

In Metropolitan Toronto, notwithstanding the problems with available resources and the change in the nature of the caseload, there were 93,035 Criminal Code dispositions in 1977-78 compared with 89,000 in 1976-77, an increase of 4.53 per cent.

In Metropolitan Toronto, minor traffic dispositions rose from 1,456,502 in 1976-77 to 1,535,092 in 1977-78, an increase of 5.39 per cent.

General

Substantial emphasis is and will continue to be placed on encouraging pre-trial disclosure in criminal matters. It is hoped this pre-trial disclosure process, which is initially being operated in Ottawa, will result in a reduction of the time spent with trials and/or preliminary hearings.

It is considered desirable to have a Provincial Judge or a limited group of Provincial Judges assigned on a continuing basis to a particular section of the caseload until that portion of the caseload has

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been finalized. In an effort to test the results of this procedure, a three-month pilot project will be initiated at the Old City Hall in Metropolitan Toronto beginning in April of 1978. In addition to there being one judicial officer assigned to a group of cases, there will also be one Assistant Crown Attorney assigned to the project. It is hoped from this project to study the results which may be achieved by having one judicial officer and one Assistant Crown Attorney exercise direct control over a particular section of the incoming caseload.

Provincial Court (Family Division)

Chief Judge H.T.G. Andrews

Jurisdiction

The jurisdiction of the Provincial Court (Family Division) includes:

- prosecutions in respect of the criminal conduct of infant offenders and criminal conduct against infant victims (i.e., juvenile delinquency and contributing to delinquency);
- proceedings in respect of child protection and neglect;
- inter-spousal rights and obligations (i.e., support, freedom from molestation, possession of the matrimonial home);
- parent-child rights and obligations (i.e., support, custody, access, freedom from molestation).

Judicial Complement As At March 31, 1977

Full-Time Family Division	49
Per Diem/Part-Time Family Division	9
On Leave	1
Serving Criminal & Family Divisions	11
Total	70

Court Operations

No. of Family Court Offices	55
No. of Locations of Sittings	120

Court Premises

During the fiscal year, courts in the Judicial District of Peel, the County of Essex and the Judicial District of York (Scarborough) occupied new accommodation.

Enlarged facilities were provided for courts in York (Etobicoke), in the District of Sudbury and for the Unified Family Court in the Judicial District of Hamilton-Wentworth. Improvements were made at several other locations and plans were initiated to provide new or improved accommodation for 11 other courts.

Training And Development

Judiciary

- Training programs were conducted for the judiciary in Kingston, Ontario, from May-June, 1977, on the subject of The Family Law Reform Act.
- The Canadian Association of Provincial Court Judges sponsored a program in Montebello, Quebec, in November, 1977. Seven newly-appointed Judges attended the two-week course.
- Continuing Education Programs were conducted at seminars and regional meetings of Judges.

Court Administrators

Training programs on The Family Law Reform Act were conducted for Court Administrators and court Social Workers in:

Location	Date	No. of Participants
Toronto	Feb. 27-Mar. 2	25
Sudbury	Mar. 6-Mar. 9	16
London	Mar. 13-Mar. 16	25
Kingston	Mar. 20-Mar. 23	23
		89

Regional Court Administrators participated in Justice of the Peace Training Programs held in:

Sudbury	North Bay
St. Catharines	Kitchener
Oakville	Chatham
Ottawa	Peterborough
Thunder Bay	

Reports and Projects

The staff researched and prepared reports on the following subjects:

- Provincial resources for detention of juveniles;
- Analysis of Automatic Enforcement Program;
- Status Report on Automatic Enforcement (3rd);
- Report on Experience '77 Program;

- Survey on Placement of Juveniles;
- Comparative Report on Maintenance Collection — 1974-77;
- Report on Child Welfare Act caseload for Child in the City Project;
- Analysis of Maintenance Monies — Fiscal Year 1974-77;
- Analysis of deserted wives show cause hearings;
- Time-Lapse and Back-Log Differentials;
- Survey of Personnel Requirements — June, 1977;
- Library requirements for courts.

Questionnaires were sent to courts to obtain information on the following subjects:

- Maintenance Collection;
- Court Activities;
- Juvenile Confidentiality;
- Staffing Requirements;
- Detention Home Facilities.

Student Employment

Experience '78

This office processed over 3,400 applications for 68 positions in the 25 participating Family Courts across the province.

Office Of The Chief Judge

Six law students were employed with this office during the summer of 1977 and were occupied with legal research for the courts.



Lanark County Court House, Perth

The Ministry of the Attorney General

Crown Law Office

R.M. McLeod,
Assistant Deputy Attorney General
and Director of Criminal Law

Crown Law Office — Criminal
Howard F. Morton,
Director

Composition

Due to the increased case load in both criminal appeals and prosecutions, it was necessary in the past year to increase the number of lawyers from 20 to 22, all of whom are specialists in the field of criminal law.

Responsibilities

1. Criminal Appeals

Criminal appeals to the Supreme Court of Ontario, Court of Appeal and Supreme Court of Canada constitute the Branch's major responsibility and compose a large portion of our workload due to their increased complexity and the increased frequency of court sittings.

2. Special Prosecutions

In the past year, the Branch has taken on a large number of prosecutions requiring complicated investigations into offences which form a pattern of criminal activity planned and organized by persons acting in concert. This activity includes illicit gambling, loansharking and other criminal rackets. The prosecutions of these activities require counsel to provide continuous legal advice to the tri-police forces' investigation into these activities.

In addition, the Branch has continued to prosecute an ever-increasing number of complicated commercial transactions involving allegations of fraud, corruption and conspiracy. These prosecutions are complex and require lengthy preparation and trial time. Liaison with the fraud squad of the Metropolitan Toronto Police, the Ontario Provincial Police and the R.C.M.P. is an important feature of the Branch's activities in order to provide the specialized prosecutorial assistance needed not only at a trial level, but also from the outset of the investigation in most cases. The Ontario Securities Commission is referring an increasing number of complex investigations involving stock market frauds and manipulations. Special prosecu-

tions under consumers protection legislation has also added to the burden of this Branch.

3. Other Court Appearances

Court appearances by lawyers in the Branch also encompass diverse matters involving various provisions of the Criminal Code of Canada and the Provincial Statutes of Ontario.

Appearances on judicial interim release hearings in murder cases, pre-trial judicial interim release review hearings, release pending appeal applications, contested motions and summary conviction appeals in Weekly Court and Chambers necessitate daily attendance in the Supreme Court of Ontario. Weekly Court and Chamber matters also include mandamus, prohibition, certiorari and habeas corpus applications and Juvenile Delinquent appeals requiring further appearances by counsel. Counsel appear on applications for leave to appeal and appeals in the Supreme Court of Canada, which are heard every two weeks. When such applications are granted, more lengthy and subsequent appearances are required for the hearing of the appeal. The increased incidence of applications for judicial interim release and bail reviews, in spite of procedural adjustments to standard court dates for the latter, necessitates daily appearances of at least two lawyers to ensure that the Crown's case is properly advanced and that dangerous offenders are not at liberty prior to their trials.

4. Advisory Responsibilities

One of the functions of the Branch is to create, within its personnel, a level of expertise in selected specialized areas of Criminal Law and procedure so as to be able to provide advice to others involved in the administration of justice in the Province who require legal opinions, often on an emergency basis. To this end, the lawyers in the Branch are constantly encouraged to involve themselves in private research and a variety of academic pursuits, including the writing of text books and articles for publication, and to participate in continuing legal education programs and seminars. Several lawyers in the Branch participate as instructors in The Law Society Continuing Education Programs, in the Bar Admission Course, Criminal Law Section, and in the Canadian Bar Association Continuing Legal Education Programs.

This advisory function also extends to the delivering of lectures and conducting of seminars at many

Ministry-sponsored courses for Provincial Judges, Crown Attorneys and Justices of the Peace and at similar courses conducted by various police and regulatory agencies.

5. Committee Work

In the past year, the participation of members of the Crown Law Office — Criminal — on various interministerial committees has increased. Members of our office have participated on committees dealing with inter alia, drinking/driving, seatbelt usage, highway safety, traffic tribunals, the drinking age, foreign investment, hypnosis, hypnotherapy and psychiatry.

6. Law Reform

In the past four or five years, the Federal Law Reform Commission has spawned a considerable volume of working papers and proposals dealing with reform of criminal law in Canada. These proposals require a response from our Ministry both in writing and by attending several workshops throughout the year. This response, which has been shared by the Crown Law Office — Criminal — and the Crown Attorneys' system, requires that considerable time be spent studying the proposals, preparing position papers, and recommending changes to the Criminal Code, some of which have been acted on by the Federal Government.

7. Extradition

The Branch is called upon almost daily to proceed with extradition hearings of criminals who have travelled across international borders to escape Canadian criminal law. To prosecute the international criminal, it is now becoming necessary to apply for Letters Rogatory and orders to take Commission Evidence in foreign countries. In cooperation with the foreign authorities, we reciprocate and assist them with their requests for extradition, Letters Rogatory and Commission Evidence.

8. Other Responsibilities

This Branch also handles various administrative matters in the criminal justice field, including transfer of charges under the Criminal Code, transfer of probation orders, reciprocal enforcement of maintenance orders, the Criminal Records Act, the Lord's Day Act and many prosecutions under provincial and federal statutes other than the Criminal Code of Canada. Another time-consuming responsibility is the administration of

the Protection of Privacy Act in reference to wiretap authorizations. Advice and assistance, involving preparation of formal opinions, service on interdepartmental committees and provision of informal expert opinion to other government departments, local Crown Attorneys and others involved in the administration of justice in Ontario on an "on call" basis, constitutes an important part of the Branch's workload.

Crown Attorneys System

History

Prosecution authority rested originally with the Attorney General and his officers at the capital of Upper Canada. As the population expanded numerically and geographically it became increasingly difficult to carry out this responsibility from one central office. In 1857, authority was granted for the creation in each county of the province of a prosecution office under the direction of a Crown Attorney appointed by the Governor. The Crown Attorney was required to be a resident of the county, and as such was a part of the local administration of justice which included the local sheriff and the jury made up of residents of the area.

Modernization has strengthened the relationship between the Crown Attorney, with his local responsibilities, and the Attorney General, who is responsible for the administration of justice throughout the Province. In 1955, the office of Director of Public Prosecutions was created to co-ordinate the activities of the local Crown Attorneys. In 1964, authority was given for the appointment of Crown Attorneys at large, to act as special prosecutors in difficult or specialized cases. The desire for improved communication in the system gave rise in 1966 to the Crown Attorneys Association, a voluntary group of Crown Attorneys and their assistants who meet to discuss common problems, conduct seminars to keep pace with the changes in the law, and promote an interchange of personnel to deal with temporary absences or unusually busy trial schedules.

Composition Today

The Division is composed of approximately 190 lawyers who specialize in the criminal law. In

The Ministry of the Attorney General

Toronto, the Office of the Director of Crown Attorneys consists of the Director, the Deputy Director and two Crown Counsel. One Crown Counsel is assigned regularly to the local offices requiring temporary assistance. The other Counsel is delegated assignments by the Director and Deputy Director. There are nine Regional Crown Attorneys, each of whom is also the Crown Attorney in his local area. There are 48 Crown Attorneys in offices throughout the Province. The largest local office is in the Judicial District of York, where the Crown Attorney is assisted by four Deputies, a Senior Advisory Assistant, and 48 Assistant Crown Attorneys. The other offices have staffs ranging in number from one to 10 lawyers. Finally, the Crown Attorneys in the Division supervise part-time Assistants, local lawyers throughout the province who are engaged on a daily basis.

Responsibilities

The Crown Attorneys' System is responsible for the conduct in Ontario of prosecutions under the Criminal Code and other Federal statutes such as the Lord's Day Act and the Juvenile Delinquents Act. From time to time Crown Attorneys also conduct prosecutions under such provincial statutes as The Highway Traffic Act and The Liquor Licence Act. Crown Attorneys and their Assistants exercise the Attorney General's discretionary powers with respect to prosecutions. They choose the appropriate charges upon which to proceed, consider the release of prisoners pending trial, and conduct the trial of cases in court.

Crown Attorneys also supervise private prosecutions and intervene if the interests of the community require it.

Regionalization

In 1976 the Attorney General designated nine existing Crown Attorneys as Regional Crown Attorneys, who are the local representatives of the Director. This regionalization program enables the Regional Crown Attorney to bring matters of regional concern to the attention of the Director, to confer with other Crown Attorneys within their Region, and to attend regular meetings in Toronto with the Director, the Deputy Director and, on occasion, the Deputy Attorney General and the

Attorney General. This program, apart from facilitating the exchange of information and regularizing the relief system concerning occasional shortages of manpower, has contributed significantly to the further promotion of uniformity of services through the application of policy directives throughout the Crown Attorneys System. The regionalization program has strengthened the principle of a uniform administration of justice without undermining the significant contributions local Crown Attorneys have made and will continue to make in the future.

Decentralization

Last year the Attorney General established a program to expand and decentralize Provincial Court facilities in Metropolitan Toronto in order to expedite the judicial process by avoiding unnecessary delays and to bring the court system closer to the people. New Court facilities have been established in Etobicoke, North York and Scarborough, involving the placement of approximately 246 people, including Judges, Crown Attorneys and support staff in these facilities. Some of the staff for the new Crown Attorneys' offices have been taken from the existing staff of the York Crown Attorney's office. The remainder have been recruited by the assignment of additional complement. A Deputy Crown Attorney has been appointed in each of the four divisions to direct the work of the Assistant Crown Attorneys assigned to his office.

The decentralization program will lessen pressure at the Old City Hall Courts in downtown Toronto, which have witnessed an extraordinary increase in the criminal caseload of the Provincial Courts (Criminal Division). The growing caseload and the nature of the existing facilities meant that certain categories of cases had been moved from one court location to another. This program will enable most cases to be heard in the area in which they arise.

Disclosure

Last year the Attorney General instituted, through the Regional Crown Attorneys, a system of pre-trial disclosure to help overcome the problem of pre-trial delays. Crown Attorneys in Ontario were directed to institute the system of disclosure effective May 1, 1977. The guidelines issued were designed to reduce the length of preliminary

hearings while retaining the right of the Crown and Defence to full examination-in-chief and cross-examination at a preliminary hearing in appropriate cases. This system is designed to provide a greater disclosure to the defence, in the majority of cases, than ordinarily could be achieved even after a full preliminary hearing. The system does not require the intervention of the Court at the Provincial Court level but is intended to enhance the effectiveness of any pre-trial conferences which the trial courts may conduct.

The program initially has been implemented on a limited basis, covering all offences where the maximum penalty is life imprisonment, except for the offence of breaking and entering a dwelling house. The program is being monitored by means of a Disclosure Report and while the preliminary results have been mixed, an effort is being made to assess the effectiveness of the program and to introduce any changes which may be warranted.

French Language Court Services

The Attorney General has expressed to the Legislature his intention to continue the expansion of

French language services. As a result of a developmental project begun in the Provincial Courts (Criminal Division) in Sudbury, French language services have now become permanent in those particular Courts. French Language Courts became available on June 6, 1977, in the Judicial District of Carleton, in Ottawa, and the United Counties of Prescott and Russell, in L'Original. An extension of this service to Kapuskasing, Hearst, Smooth Rock Falls, Cochrane, and Hornepayne also came into effect in 1977. French language court services now are available to about 66 per cent of Ontario citizens who speak French only. In addition, French language court services are available to about 35 per cent of our citizens who speak both French and English.

French language instruction has been provided to the Ottawa Crown Attorney's office. As a result of this program two Assistant Crown Attorneys in Ottawa are able to conduct prosecutions in French. Steps also are being taken to recruit French speaking personnel where it is practicable to do so.

The Attorney General has established a Task Force within his Ministry to explore further the legal and administrative issues involved in expanding French language services in our courts.



Brant County Court, Brantford

The Ministry of the Attorney General

Civil Litigation and Legal Advisory Services

Blenus Wright,
Assistant Deputy Attorney General

The Assistant Deputy Attorney General is responsible for the operation of the Crown Law Office — Civil Law — which is divided into the Constitutional Law and Civil Law Divisions. He is also in charge of liaison between the Ministry and the Ontario Municipal Board and he deals with conflict of interest matters. He is the Attorney General's representative on the Rules Committee of the Supreme and County Courts, the Civil Procedure Revision Committee and the Law Foundation of Ontario.

Constitutional Law

D.W. Mundell, Q.C.,
Director

The branch consists of four lawyers including the director. During the year important constitutional cases in the Supreme Court of Canada included the following:

Capital Cities Communication v. C.R.T.C.

The Supreme Court has held that the federal Broadcasting Act is valid in its application to television programs carried on cable systems.

Attorney General for Quebec v. Kellogg Company of Canada

The validity of Quebec legislation restricting cartoon advertising on television shows for children was upheld.

Simpsons-Sears v. Provincial Secretary for New Brunswick

The Supreme Court of Canada decided that the distribution of catalogues without charge in New Brunswick was not subject to a consumption tax by the distributor under provincial legislation.

Reference re Ontario Farm Products Marketing Act et al

The Supreme Court of Canada has ruled that the provincial Marketing Act is valid and that federal legislation is also valid except with respect to the authorization of the imposition of levies for

provincial purposes. It will hereafter be competent to the Legislature to legislate on this subject.

Nova Scotia Board of Censors v. McNeil

The validity of provincial legislation authorizing the censorship of films was upheld, except insofar as it duplicates federal obscenity legislation.

Attorney General for Quebec v. Belanger

The Quebec legislation regulating cable television systems was found to be invalid by the Court.

R. v. Hauser

The issue in this case was the validity of federal legislation conferring authority on federal officials to prosecute contraventions of federal laws and the extent of the provincial prosecutorial function. The case has been argued and judgment reserved.

Attorney General of Canada et al v. Keable

Ontario intervened in this case on the issues of the power of a provincially-appointed commission of inquiry to investigate federal institutions, the extent of Crown privilege and the application of the Official Secrets Act. The case was argued and judgment reserved.

R. v. Cordez

The validity of the wiretap provisions of the Criminal Code and the extent of provincial power to investigate crime by means of wiretap were contested. The case was argued and reserved.

In addition to the foregoing cases in the Supreme Court of Canada, important constitutional questions were raised in the Provincial Courts:

Hamilton Harbour Commissioners v. City of Hamilton

The Court of Appeal has upheld the validity of city by-laws controlling use of lands within the harbour where such use is unconnected with navigation and shipping or harbour purposes.

Pickering Harbour Commissioners v. Township of Pickering

The issue here is similar to the issue in the Hamilton Harbour case. These proceedings were begun but have been postponed pending a decision in the Hamilton Harbour case.

Multiple Access Ltd. v. Ontario Securities Commission

The validity of the insider trading provisions of The Securities Act has been held by the Court of Appeal to be inoperative by virtue of the paramountcy of duplicative federal legislation. Leave to appeal to the Supreme Court of Canada will be sought.

City of Mississauga v. Regional Municipality of Peel

The Court of Appeal has upheld the constitutional validity of provincial legislation conferring jurisdiction on the Ontario Municipal Board to allocate assets between the new city and the new regional municipality. Leave to appeal to the Supreme Court of Canada has been granted.

R. v. Dominion Stores Ltd.

The validity of the Canada Agricultural Products Standards Act in its application to local retail trade in the province was at issue. The Court of Appeal held it valid. Leave to appeal to the Supreme Court of Canada has been granted and the appeal is to be argued at the fall sitting of the Court.

Donline Haulage Ltd. v. The Queen

The validity and operation of provincial legislation regulating the axle weight of commercial vehicles has been decided by the County Court in favour of the legislation. An appeal has been brought in the Divisional Court.

T.E. Quinn Truck Lines Ltd. v. Her Majesty the Queen

The validity of licensing provisions of federal legislation providing for the extra-provincial licensing of transport undertakings by provincial authorities was challenged. The Court of Appeal decided in favour of the appellants while rejecting the challenge to the legislation.

The Becker Milk Co. Ltd. v. Minister of Revenue

The Supreme Court of Ontario held that an assessment of a vendor under The Retail Sales Tax Act for uncollected or unremitted retail sales tax had no statutory basis in this case. The decision is under appeal to the Court of Appeal.

Westlaw Steak House v. The Ministry of Revenue

An attack on the validity of provisions of The Retail Sales Tax Act imposing penalties was rejected by the Divisional Court.

Levkoe v. Reg.

The validity of provisions of The Health Disciplines Act dealing with drugs was upheld by the Divisional Court and leave to appeal to the Court of Appeal was denied.

Ministry of Revenue v. Hala

The Land Transfer Tax Act, 1974, imposing a higher tax on non-residents acquiring land in Ontario was held valid by the Supreme Court of Ontario.

R. v. Batisse

A District Court Judge has held that The Game and Fish Act is not applicable to Treaty No. 9 Indians.

Civil Law

Julian Polika,
Director

The Branch consists of 17 lawyers, including the Director, and provides independent legal service for all Ministries of the Government, especially in the area of civil litigation.

Workload

The work of the office has continued to grow. The total number of cases assigned was 1,491 and as of March 31, 1978, there were in excess of 1,800 files on hand. Approximately 25 per cent of new matters handled was in the area of serious litigation, that is, applications for judicial review, Supreme Court of Ontario actions or actions in other levels of Court such as the Federal Court of Canada. Approximately 20 per cent were motor vehicle actions in all levels of Court. Some 231 opinions were provided, of which more than 50 per cent were for other Ministries.

Serving the Ministry of the Attorney General

The Branch provides a complete legal service for the Ministry and, in the area of Civil litigation and

The Ministry of the Attorney General

opinions, the work has increased and become more varied. In particular, there has been an increase in litigious and advisory matters involving sheriffs. The Branch has been involved in a great number of interpleader applications.

Serving Other Ministries

Work done for the Ministries continues to increase. Branch work involves appearances on behalf of the Government in civil litigation in Small Claims Court, in the County, Supreme and Federal Court Trial Divisions, and in appeals in applications before the Divisional Court, Court of Appeal for Ontario, Federal Court of Appeal and Supreme Court of Canada.

The Branch also appeared before various Boards and Tribunals and conducted provincial prosecutions on behalf of a number of Ministries.

Particular Services Provided

1. Judicial Review

Under The Judicial Review Procedure Act, the Attorney General is entitled to be heard in person or by counsel in all matters of judicial review and, by statute, all applications for judicial review must be served upon the Attorney General. At the time of service, applications are examined to determine whether an intervention will be made on behalf of the Attorney General or whether the Branch will be acting on behalf of a named party. In the fiscal year 1977/78, 257 applications for judicial review were received and counsel for the Branch intervened or appeared on behalf of parties in 141 of these applications.

2. Claims for and against the Crown

Pursuant to The Proceedings Against the Crown Act, a Notice of Claim must be served upon counsel in the Branch before an action is brought against the Crown. This enables counsel to investigate the claim before an action has begun to determine what the position of the Crown will be and whether a settlement is possible. The Branch handles the full range of claims available in law except for certain technical subjects requiring particular expertise such as patents or trademarks.

In the fiscal year 1977/78, the Branch opened 400 such files, excluding claims pertaining to motor vehicle accidents, mechanics' liens and expropriation matters.

3. Motor Vehicle Accident Claims

The Branch acts on behalf of the Government in respect of motor vehicle accident claims where the Government or an employee of the Government has a claim against an individual. Claims against the Government where the Government has no counter-claim are handled by our insurers' counsel. These claims are first handled by the Claims Director; if settlement is not possible an action is brought in the appropriate level of Court, counsel assigned and the matter brought to completion. In the fiscal year 1977/78, 318 such claims were received.

4. Mechanics' Lien Actions

As of January 1, 1976, The Public Works Creditors Payment Act was repealed and the Crown, save for the Ministry of Transportation and Communications, was made subject to the provisions of The Mechanics' Lien Act with the exception that a lien could not be attached to property of the Crown. In the fiscal year 1977/78, 58 such actions were handled by the Branch.

5. Expropriations

Over the last three years the Branch developed expertise in the area of expropriations. On behalf of the Ministry of Transportations and Communications and the Ministry of Government Services, the Branch now handles matters before the Land Compensation Board and, if need be, in the Courts. In the fiscal year 1977/78, 33 such matters were handled.

6. Boards and Tribunals

The Branch provides counsel service and advice to various Boards and Tribunals, for example, the Game and Fish Hearing Board, The Environmental Assessment Board, the Ontario Municipal Board, the Criminal Injuries Compensation Board.

The Ontario Human Rights Commission continues to make use of the Branch. Counsel have appeared on behalf of the Commission on Boards of Inquiry ordered by the Minister of Labour to investigate alleged breaches of the Ontario Human Rights Code. In the fiscal year 1977/78, 66 cases were handled in this particular area.

7. Her Majesty's Proctor

Pursuant to the Matrimonial Causes Act, the position of Her Majesty's Proctor was created to provide an independent officer to assist the Courts in divorce actions and other related matrimonial

causes. Counsel within the Branch appear regularly in respect of applications made by a spouse in a divorce action to prevent the issuance of a decree absolute. The Courts also have called upon the Queen's Proctor for assistance in pending matrimonial matters. At present the Queen's Proctor is the Director of the Branch, Julian Polika. In the fiscal year 1977/78, 117 Queen's Proctor matters were reviewed and counsel within the office actively dealt with 62 of these.

8. Provincial Prosecutions

The Branch has been called upon to conduct provincial prosecution cases involving a particular area of expertise or whether the matter transcends county boundaries. In particular, prosecutions have been conducted on behalf of the Ministry of Revenue under The Retail Sales Tax Act and on behalf of the Ministry of Natural Resources under the Game and Fish Act and related statutes. In the fiscal year 1977/78, 30 such prosecutions were conducted.

9. Advisory Services — Providing legal opinions

The Branch, in response to specific inquiries from the Ministries, provides legal opinions on a wide variety of subjects involving interpretation of Provincial statutes. These opinions may also be prepared with a view to establishing a position for a Ministry in anticipation of litigation or as a result of litigation. In the fiscal year 1977/78, 231 opinions were provided.

10. Legislative Advice

The Branch is frequently involved in the preparation of legislation where a change may be necessitated by a court judgment. This requires constant liaison with the Ministries concerned in order to ensure that the legislative changes conform to judicial pronouncements as well as to the needs of a Ministry. In addition, in relation to statutes administered by the Ministry of the Attorney General, legal officers are expected to recommend necessary changes and to work with the Policy Development Division and with the Legislative Counsel's office to see that those changes are carried out. On a day-to-day basis, legal officers answer public inquiries pertaining to statutes administered by the Ministry.

11. Solicitors Work

The Branch provides a full range of solicitor's services to the Ministries and, in particular, to the

Ministry of Industry and Tourism, which does not have its own legal branch. The Branch has conducted all solicitor's services for Ontario Place Corporation.

Statistical Review of 1977/78 Workload

The chart below shows that 1,491 files were assigned in the fiscal year ending March 31, 1978. The present level of intake is in excess of 170 files per month. A review of the number of cases assigned by month together with the fact that in April, 1978, 186 files were assigned as opposed to 95 in April, 1977, indicates that there has been a substantial increase in the workload of the Branch.

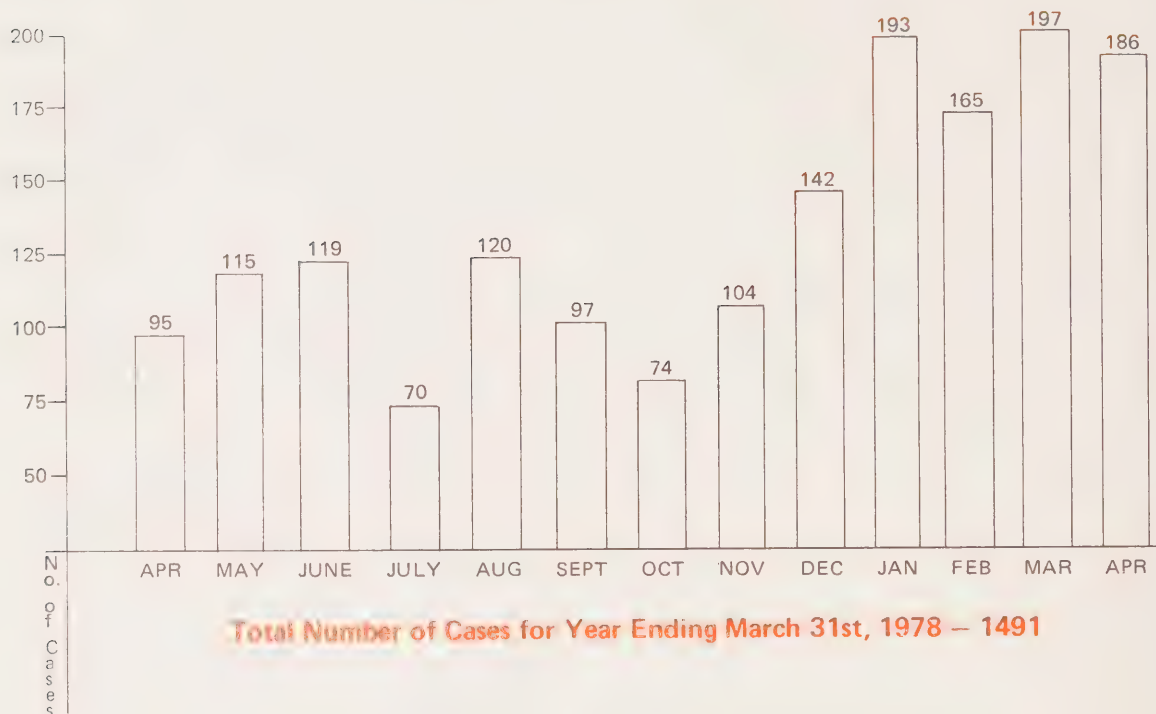
In addition to the assigned files, 176 applications pertaining to judicial reviews, Queen's Proctor matters and habeas corpus applications were reviewed by the Director. It was decided not to intervene in those cases.

At the close of the fiscal year on March 31, 1978, counsel in the Branch had on hand in excess of 1,800 files. An indication of the serious nature of this carryover is that during the fiscal year 1977/78, 105 Supreme Court of Ontario actions were assigned but there were in excess of 225 carried over. The average life span of a Supreme Court action can be anywhere from three to 4.5 years depending upon what appellate procedures follow the trial. In such actions it is not uncommon for counsel to spend in excess of 100 hours preparatory time in addition to whatever court time is required.

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Number of Cases Assigned by Month

April 1977-April 1978



Forecast of Operational Activities

The Branch does not develop new programs and activities. The Branch, for practical purposes, simply renders legal services on behalf of the Government.

It is anticipated that during the fiscal year 1978/79, the Branch will handle some 2,400 new cases in addition to the carryover of 1,800 cases. A comparison of the number of files opened with the carryover figure indicates that as of March 31, 1979, the Branch will have approximately 2,900

files on hand or approximately 161 for each lawyer in the Branch. Legal activity, and in particular civil litigious activity, has and is greatly increasing insofar as it pertains to the Government of Ontario.

French Language Instruction

In the fiscal year 1977/78, approximately 50 per cent of the lawyers on staff were on French-language conversation courses. During the fiscal year 1978/79 this figure is expected to increase.

Common Legal Services

John D. Hilton, Q.C.,
Assistant Deputy Attorney General

All Government lawyers employed by Ministry

Common Legal Services is a program to provide legal services for all Ontario Government ministries and to develop a unified approach to such things as opinions as well as pay and grading for legal services and to assist independent boards and commissions in these regards when requested. Lawyers in the 18 legal branches of the various ministries are employed by Common Legal Services on behalf of the Attorney General. This encourages independence of legal opinion within Government ministries and results in consultation on points of law. Common Legal Services is also responsible for retaining outside counsel where the services of such are required by the Government. Including the offices of the Official Guardian and Public Trustee which report to the Assistant Deputy Attorney General, Common Legal Services, this program has nearly 400 professional, secretarial and clerical employees.

Professional Development

Professional development of its lawyers is a continuing objective of Common Legal Services. Educational programs offered by the Canadian Bar Association, The Law Society of Upper Canada and The Advocates Society are regularly used for updating and enlarging the legal knowledge of member lawyers. Movement of lawyers between legal branches and promotion of employees within Common Legal Services are both on the rise, creating more career opportunities for government lawyers.

Liaison with Boards

This office has a liaison responsibility between the Ministry and the Municipal Board, the Land Compensation Board, the Board of Negotiation and the Criminal Injuries Compensation Board.

Chief Inquiry Officer

This office spends much time discharging the responsibilities of the chief inquiry officer, pursuant to The Expropriations Act, involving the retainer of and the liaison with inquiry officers throughout the province and a large area of

communications with the public in relation to The Expropriations Act generally.

Liaison with Official Guardian and Public Trustee

The offices of the Official Guardian and the Public Trustee also report to the Assistant Deputy Attorney General, Common Legal Services.

More time has been used in liaison with and recruiting for these offices. The increased demand for the services of the Office of the Official Guardian and its agents and the organizational changes in the Office of the Public Trustee have heightened the activity in these offices substantially.

General Counsel Work

The Assistant Deputy Attorney General, Common Legal Services, is also involved in special counsel work representing the Ontario Government chiefly before the Supreme Court of Canada in some matters of constitutional importance.

Office of the Official Guardian

L.W. Perry, Q.C.,
Official Guardian

Function

The Official Guardian provides legal services for minors, unborn and unascertained persons, mental incompetents and absentees in accordance with the provisions of Section 107(2) of the Judicature Act.

General

The work of the office has grown from 14,395 new cases in 1973 to 18,780 in the calendar year 1977, an increase of 31 per cent in five years.

The office has a staff of 61. It also uses the services of lawyers who act as agents throughout the province. It employs Children's Aid Societies outside Toronto and freelance social workers in Toronto to assist in investigation and preparation of reports in the increasing number of divorce and custody actions.

The Official Guardian is participating in a Family Court Conciliation Project initiated to preserve the sanctity of family life from improvident dis-

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solution of marriages to the detriment of families in general and children in particular.

The Official Guardian is a member of a committee, headed by W.B. Williston, Q.C., which is completely revising the rules of practice of the Supreme Court of Ontario. The Official Guardian also participates in the Unified Family Court Project in Hamilton.

Increasing Demand

The Official Guardian tries to contribute to developments in family and child law and to meet new, related responsibilities.

The Law Reform Commissions of Canada and Ontario have strongly recommended that the law give more adequate protection of the personal rights of minors in addition to the traditional protection of their proprietary interest. Judges are now appointing the Official Guardian as guardian ad litem (counsel) to represent children in custody and access proceedings.

Another matter of major concern is the adoption of children of unwed mothers whose consent to adoption is required and which is often obtained before a guardian ad litem is appointed and the minor mother has had independent legal advice. The Official Guardian provides legal advice to unwed mothers before they consent to adoption. This important and far-reaching development will tend to curb improper placement of children by lawyers and doctors who might inadvertently or otherwise take advantage of unwed mothers to the serious detriment of the infants concerned.

The Official Guardian continues to provide legal assistance for minors who are apprehended by Children's Aid Societies under Part II of the Child Welfare Act in cases in which there is a conflict between the Societies' proposal and the wishes of the minor.



Kenora District Court House

Report of Operations

The statistical data for the fiscal year 1977-78 and for the calendar years 1974 through 1977 is as follows:

Surrogate Court Audits	1974	629	(Decrease in 1974)	24
	1975	608	(Decrease in 1975)	21
	1976	640	(Increase in 1976)	32
	1977	594	(Decrease in 1977)	46
Fiscal Year 1977-1978		596		
Matrimonial Causes New Matters	1974	11,998	(Increase in 1974)	1656
	1975	12,738	(Increase in 1975)	740
	1976	13,378	(Increase in 1976)	640
	1977	13,423	(Increase in 1977)	45
Fiscal Year 1977-1978		13,552		
Number of Payments in to Court	1974	190	(Decrease in 1974)	28
	1975	189	(Decrease in 1975)	1
	1976	232	(Increase in 1976)	43
	1977	285	(Increase in 1977)	53
Fiscal Year 1977-1978		265		
New Fiats authorizing payments out of Court for maintenance and other purposes	1974	271	(Decrease in 1974)	99
	1975	384	(Increase in 1975)	113
	1976	417	(Increase in 1976)	33
	1977	458	(Increase in 1977)	41
Fiscal Year 1977-1978		470		
Number of Payments out of Court pursuant to existing Fiats	1974	1,572	(Decrease in 1974)	211
	1975	1,607	(Increase in 1975)	35
	1976	1,787	(Increase in 1976)	180
	1977	1,883	(Increase in 1977)	96
Fiscal Year 1977-1978		1,907		
General Counsel Work in Matters arising out of: The Child Welfare Act; The Dependents' Relief Act; The Devolution of Estates Act; The Dower Act; The Fatal Accidents Act; The Highway Traffic Act; The Infants Act; The Settled Estates Act; The Surrogate Court Act; The Trustee Act; The Variation of Trusts Act; The Wills Act; The Insurance Act; The Mortgages Act; The Partition Act.				
	1974	1,141	(Increase in 1974)	112
	1975	1,125	(Decrease in 1975)	16
	1976	1,325	(Increase in 1976)	200
	1977	2,010	(Increase in 1977)	685
Fiscal Year 1977-1978		2,187		
Child Representation in Custody and Access Matters	1976	79		
	1977	127	(Increase in 1977)	48
Fiscal Year 1977-1978		127		

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New Miscellaneous Matters

Numerous attendances, telephone inquiries and extensive correspondence, both with solicitors and the public, about how to deal with the personal and financial welfare of infants.

The total number of New Matters and Cases in the years

1974	15,801
1975	16,651
1976	17,858
1977	18,780
Fiscal Year 1977-1978	19,104

Forecast of Operational Activities

The Office of the Official Guardian does not initiate new programs and activities. The Branch renders legal services on behalf of persons who have a legal disability, mainly minors and mental incompetents. It also keeps abreast and contributes to developments in Family and Child law and has a specific responsibility to provide independent representation in relation to the Unified Family Court Project in Hamilton. Its operation for the fiscal year 1978/79 will be consistent with this responsibility.

The forecast of the program and activities for the fiscal year 1978/79 and the three succeeding years are as follows:

Surrogate Court Audits	1978-79	650
	1979-80	650
	1980-81	650
	1981-82	650

Matrimonial Causes

New Matters	1978-79	15,000
	1979-80	16,000
	1980-81	17,000
	1981-82	18,000

Payments Into Court	1978-79	275
	1979-80	275
	1980-81	300
	1981-82	300

New Fiats Authorizing Payments Out of Court for Maintenance and Other Purposes

1978-79	500
1979-80	550
1980-81	600
1981-82	650

Payments Out of Court Pursuant to Existing Fiats

1978-79	2,000
1979-80	2,100
1980-81	2,200
1981-82	2,300

General Counsel Work

1978-79	1,400
1979-80	1,500
1980-81	1,600
1981-82	1,700

Child Representation in Custody and Access Matters

1978-79	400
1979-80	500
1980-81	600
1981-82	700

Child Welfare Counsel Work (included under General Counsel Work in 1977/78)

1978-79	1,500
1979-80	2,000
1980-81	2,500
1981-82	3,000

Public Trustee

A.J. McComiskey, Q.C.,
Public Trustee

Mr. F.J. Maher, Q.C., retired as Public Trustee on February 1, 1978, after 22 years of valued service to the Office of the Public Trustee. He was succeeded by A.J. McComiskey, Q.C.

Duties

The Public Trustee's duties include the administration of the estates of mentally incompetent persons under the provisions of The Mental Health Act, The Mental Incompetency Act, and by Power of Attorney. The Office also administers the estates of persons dying in Ontario intestate and leaving no next-of-kin or heirs-at-law in the Province. Obligations are also placed on the Office under The Business Corporations Act to accept assets on behalf of shareholders who cannot be located when limited corporations are being dissolved and also to supervise applications for relief from forfeiture under The Escheats Act. A growing responsibility is placed on the Office to protect the rights of charities who receive benefits as beneficiaries from estates and also to supervise charitable organizations in an effort to make certain that they are properly administered. With the co-operation of the Companies Division of the Ministry of Consumer and Commercial Relations an effort is made from the date of the incorporation of a charitable organization to see that it conforms to the applicable laws.

Special Trusts

A number of special trusts are also administered by the Public Trustee pursuant to The Cemeteries Act, The Workmen's Compensation Act and The Compensation for Victims of Crime Act.

General Operations

There has been no substantial change in the general operations of the Office with respect to the administration of estates of incompetents or under The Crown Administration of Estates Act or with respect to corporate responsibilities. There has, however, been an increased demand on the staff of the Office in the charities field. The Mortmain and Charitable Uses Act continues to present a great many problems to charitable organizations who find that they have been

divested of title to real property by reason of non-compliance with the provisions of the Act and it is hoped that some changes will be made in this legislation to clarify the situation.

With increasing demands on the Office it has become harder to provide the estates under administration with the service to which they are entitled since there has been no increase in number of staff of 155 for many years. In an effort to provide reasonable service to those whom the Office represents, data processing is being implemented, to be in operation, hopefully, by the middle of 1979. It is anticipated that this will provide information more quickly.

Financial Operations

The Office of the Public Trustee receives income from three main sources: legal fees, compensation as administrator or committee, and investment income. The office pays all of its operating expenses and produces a net profit.

During 1978 total fees increased by 28 per cent. Excess of revenue over expenditures increased by 12 per cent. It is anticipated that changes in investment policy, increased fees and compensation arising from a larger number of estates under administration and the increased value of those estates, and the ability to make current the charge for legal fees and compensation as a result of data processing will substantially increase the profit of the Office in the immediate future.

Revenue and Expenses as at March 31, 1978, are shown below.

The Ministry of the Attorney General

Statement of Revenue and Expenses as at March 31st

	1978	1977
Revenue		
Fees: Patients' Estates	\$1,013,915	\$ 811,630
Crown Estates	484,992	314,294
Special Trusts	115,712	106,159
Company Trusts	14,765	25,073
Cemetery Trusts	17,443	16,193
Charities	32,216	35,664
Total Fees	1,679,043	1,309,013
Bank Interest	12,098	14,359
Income from Investment Fund Account, Net	1,991,884	2,119,081
	3,683,025	3,442,453
Deduct debit balances written off	1,728	46
	\$3,681,297	\$3,442,407
Expenses		
Salaries	\$2,097,147	\$2,034,826
Employees Benefits	296,361	264,574
Transportation and Communications	78,556	71,276
Services	481,614	415,016
Supplies and Equipment	81,792	79,981
	3,035,470	\$2,865,673
Excess of Revenue over Expenditure	\$ 645,827	\$ 576,734

Statement of Surplus

Balance at beginning of year	\$4,950,766	\$4,374,032
Add excess of revenue over expenditure	645,827	576,734
Balance at end of year	\$5,596,593	\$4,950,766

Investment Fund Account

	As of March 31st	
	1978	1977
Bank Term Deposits	\$ 1,000,000	
Bonds at Amortized Cost	88,594,462	\$83,709,136
Accrued Interest Received	2,083,282	1,907,586
Cash in Bank	92,256	53,278
	<u>\$91,770,000</u>	<u>\$85,670,000</u>
Interest Earned on Investments	\$ 7,737,708	\$ 6,747,630
Interest Earned on Bank Accounts	37,363	46,631
	<u>7,775,071</u>	<u>6,794,261</u>
Less: Interest Allowed	4,180,329	3,882,106
Book Loss on Exchange of Securities	1,602,858	793,074
Net Earnings	<u>\$ 1,991,884</u>	<u>\$ 2,119,081</u>

Securities Held For Investment Fund Account As At March 31, 1978

	Par Value	Amortized Cost	Quoted Market Value
Province of Ontario	\$13,450,000	\$13,430,043	\$12,314,188
Ontario Hydro	75,687,000	75,164,419	72,849,630
Bank of Montreal			
Term Deposit Receipt	1,000,000	1,000,000	1,000,000
	<u>\$90,137,000</u>	<u>\$89,594,462</u>	<u>\$86,163,818</u>

The Ministry of the Attorney General

Balance Sheet As At March 31, 1978

Assets

	1978	1977
Estates and Trusts		
Cash in Bank	\$ 55,729	\$ 95,089
Funds Invested	85,810,000	80,235,000
Bonds	24,240,192	20,428,566
Stocks	3,754,106	4,147,592
Mortgage Receivable	1,937,991	1,881,236
Real Estate	24,879,973	23,554,661
Life Insurance and Pensions	21,737,535	19,970,382
Miscellaneous	2,417,017	2,538,178
	164,832,543	152,850,704
Less: Mortgage Payable	1,146,496	827,021
	163,686,047	152,023,683
Administration Fund Account		
Cash in Bank	24,264	27,417
Funds Invested	5,960,000	5,435,000
	5,984,264	5,462,417
Total Assets	\$169,670,311	\$157,486,100

Liabilities

Estates and Trusts		
Patients' Estates	\$123,346,070	\$114,590,632
Crown Estates	12,427,601	11,351,838
Probable Escheats	8,531,449	7,674,451
Special Trusts	10,969,964	9,752,763
Company Trusts	3,454,747	3,562,964
Indian Trusts	187,716	212,657
Unclaimed Balances	310,682	296,204
Cemetery Trusts	4,386,224	4,510,085
Child Welfare	71,594	72,089
	163,686,047	152,023,683
Administration Fund Account		
Current Liabilities	187,671	311,651
Assurance Fund	200,000	200,000
Surplus	5,596,593	4,950,766
	5,984,264	5,462,417
Total Liabilities	\$169,670,311	\$157,486,100

Statistical Review

	As at March 31st	
	1978	1977
Assets under Administration		
Revenue	\$169,670,311	\$157,486,100
Operating Expenses	3,681,297	3,442,407
Excess of Revenue over Expenditure	3,035,470	2,865,673
Surplus	645,827	576,734
Cash Receipts	5,596,593	4,950,766
Public Trustee Investments at Book Value	46,014,429	44,157,368
No. of Files — Estates and Trusts	89,594,462	83,709,136
No. of Files — Charities	25,283	25,806
No. of Staff	27,036	25,222
	155	155



Oxford County Court House, Woodstock

The Ministry of the Attorney General

Programs and Administration Division

G.H. Carter,
General Manager

Mr. G.H. Carter was appointed General Manager effective September 5, 1978, filling the vacancy created by the appointment of B.W. McLoughlin as Assistant Deputy Attorney General and Director of Courts Administration

Function

This section of the Ministry is responsible for directing and co-ordinating the Ministry's general support services including personnel, financial management, auditing and administrative procedures. In 1977/78 emphasis was again placed on increasing the efficiency of available resources in compliance with the Ontario Government's continued constraint measures.

Finance and Services Branch

H.A. Gibbs,
Director

During the fiscal year 1977/78, the Branch continued its search for areas where administrative economies could be introduced to facilitate the Ministry's response to the Treasurer's continuing program of budgetary constraint. The Forms Management Program of the Ministry, encompassing standardisation and bulk purchasing of forms, became operative supported by a newly-formed offset printing operation which produced 5.5 million low-cost impressions during its first year of operation.

A computer utilisation study was completed, resulting in changes to EDP operations and systems which significantly reduced staffing costs and freed machine time for other activities. Various other changes to administrative policies and procedures were implemented, all of which were directed towards administrative efficiency and economy.

The study on sources of Ministry revenue was completed and has provided the Ministry with an information base to give greater consideration to widening the fee structure for services provided members of the public through the judicial system.

The increasing activity of the Small Claims Courts indicated a need for improved financial controls and reporting. In order to meet this need, the Branch developed an accounting system which is now being implemented in the larger Courts.

High priority continues to be given to the improvement of communications and internal contacts through staff visits and attendance at out-of-town seminars for Provincial Court administrators.

Management Audit Branch

S.E. Neundorf,
Director

Audits

Audits of Court and Judicial Offices continued with Special Assignments continuing to place heavy demands on the Branch's manpower resources. Major special items were the Inter-Ministerial Committee on Vehicle Registration, and the seconding of one auditor on a full-time basis to the Survey of Police Services. The Branch continues to be involved in both these projects.

Defaulted Fines/License Suspension System

Suspension activity and rate of reinstatement continued near the previous year's level. The cumulative rate of reinstatements was 76 per cent as at March 31, 1978, representing a value of \$7,055,667.

Personnel Management Branch

O.M. Mitchell,
Director

The Branch continued to provide responsible assistance to Managers in conditions dominated by continuing staffing and budget constraints.

Staffing

Restraints included a complete "freeze" of three weeks on all staffing activity and stricter control of temporary help. Contract staff

required multiple documentation to meet control requirements. Special staffing programs such as a summer student program, Experience '77, O.C.A.P. and work experience weeks were supported by the Ministry and administered through the Branch. Two students in Personnel were located in a training program in the Branch.

Organisation and Position Administration

Internal Ministry organisation and decentralization resulted in corresponding Branch activity. With Program Managers the Branch participated in continuing broadbanding policy, particularly on the working Committee of the Law Administration Group.

The Branch provided the statistical base for the preparation of the Ministry submission to Management Board for the new Classified Structure Ceiling and set up a conversion and recording system to provide for detailed on-going monitoring by Management Board.

Staff Relations

The implementation of a new Working Conditions Collective Agreement included contract staff. Branch staff have continued to provide interpretation and assist Managers in resolution of informal complaints and at formal meetings or hearings.

The Employee Benefits Reports generated questions which were handled largely by the Employee Counsellor and Supervisor of Personnel Services.

Staff Training and Development

The Ministry continues to be a major supporter of Civil Service Commission sponsored courses and job-related individual development. Internal management programs for Court Administrators progressed to their planned second phase, with hopes that other managers can be included in the course in the near future.



Peterborough County Court House

The Ministry of the Attorney General

Program Analysis Branch

J. Solymos,
Co-ordinator

The main service provided during 1977-78 was, as in prior years, in support of improved utilization and allocation of resources in the various programs of the Ministry.

Management by Results

This special initiative is in response to the Ontario Government's intention that all ministries fully implement for use in the 1978/79 fiscal year a management concept known as MBR (Management by Results), the thrust of which is to focus management attention on the results of public expenditure. Among the implications of adopting this management concept are the development and/or improvement of data flows on workloads and resource levels as well as the use of the resultant information in measuring and monitoring the overall efficiency and, where suitable, the general effectiveness of programs. Work was accordingly continued on the development, testing, refinement and maintenance of ways to measure and report upon the levels of resource utilization actually attained in the various programs. At the start of the year, the utilization of some 60 per cent of the Ministry's resources was being monitored, the result of earlier work in the Branch. Broad over-all indicators were being developed and formally reported to measure utilization in such terms as "average workload per man-year". By year-end, this monitoring process had been extended to other key programs which comprises a further eight per cent of the Ministry's resources. The MBR implementation process is expected to be concluded during the 1978-79 fiscal year by bringing the total coverage of the operating programs representing about 94 per cent of total Ministry resources.

Special Evaluations

Other services provided by the Branch during 1977-78 were concerned with specific day-to-day issues. Statistical and other evaluations, for example, were prepared as support for several applications to Management Board for budgetary and program adjustments.

Systems Development Branch

The Systems Co-ordinator's position remained vacant during the 1977-78 fiscal year. Mrs. Doreen Mueller was appointed Co-Ordinator effective May 29, 1978.

A process to decentralize the systems resources located in the Ministry of Government Services was initiated by the Management Board of Cabinet. This process overshadowed the activities of the Systems Development Branch. The Management of the Ministry decided to await the recommendations of the 'Systems Process Task Force.'

A limited number of projects were undertaken during this period. Resources for these projects were procured from the private sector and the Ministry of Government Services. The mechanised accounting system for the Public Trustee progressed to detail design phase and it is expected to be implemented early in 1979. A feasibility study to automate the operation of the Accountant of the Supreme Court of Ontario was completed and a mini-computer was installed during the latter part of the fiscal year.

Management Information System

The staff of the Branch undertook consolidated efforts to improve the collection and reporting of statistics. The Annual Report of Court Statistics for 1976-77 was published. A system to collect data for examinations and taxations for the Supreme and County or District Courts was developed and implemented. The existing Criminal and Minor Offences Systems were evaluated and it was decided to discontinue the automated system.

Accountant, Supreme Court of Ontario

E.J. McGann,
Accountant

Assets

Assets under management at the end of the fiscal year 1977 totalled \$143 million, unchanged

from the previous year. The rate of nine per cent per annum on funds belonging to infants was maintained throughout the year. The rate of six per cent per annum continues to be paid on other funds being held pending court cases. Both rates are compounded semi-annually and are calculated on a minimum monthly basis.

Revenues and Investments

The investment portfolio continues to be traded actively. The interest revenue on the portfolio increased to \$12 million from \$10.05 million in the fiscal year 1976-77. The monies paid into Suits and Matters in the current fiscal year totalled \$52 million while disbursements for the same period were \$58 million (including one \$8 million disbursement). In the previous fiscal year the figures were \$45 million and \$39 million respectively.

Communications Branch

David Allen,
Director

The Communications Branch was established in 1977 in response to increased public demand for information on the activities of the Ministry and the judicial system in general.

The Branch is responsible for the preparation and production of news releases, statements, speeches, pamphlets, booklets and other material to explain Ministry programs and legislation. The Director advises the Attorney General, Deputy Attorney General and senior Ministry officials on communications matters.

The Branch's major activities during the year included the preparation, with the assistance of the Policy Development Division, of informational material on the Family Law Reform legislation and the Small Claims Courts.

Legislation passed during the year increased the jurisdiction of the Small Claims Courts and made changes in their procedures. A pamphlet highlighting the changes was prepared for wide public distribution to alert the public to the services available. In addition, a booklet with step-by-step procedures for both plaintiffs and defendants was being prepared.

The Family Law Reform legislation, after more than a decade of public discussion and debate, was passed to take effect on March 31.

The Branch supervised the preparation of the Ministry's most extensive information and education campaign, including advertising in newspapers and magazines and spot announcements on radio. Letters to the Ministry on this subject totalled almost 5,000 per week in April and May of 1978 and continued into the summer months at the rate of about 300 per week.

A pamphlet with the highlights of the reforms was prepared for wide distribution. A 74-page booklet with a detailed explanation, including the text of the Family Law Reform Act, was published. A 30-minute film for use in classrooms and by community groups was commissioned. The pamphlet, booklet and film are available in both English and French.

There was a continuing strong demand during the year for the Ministry's other publications, particularly those on landlord-tenant matters, legal aid and criminal injuries compensation. Requests from teachers for class sets of these publications as well as those on Family Law Reform and Small Claims Courts often included concerns expressed about the lack of suitable Canadian and Ontario educational material on the judicial system.

The Branch has supervised the conclusion and editing of a film on a typical day's proceedings in the Provincial Court (Criminal Division) and is exploring methods of making more material and legal personnel available to the increasing number of students in secondary school law courses.

Boards and Commissions

Ontario Law Reform Commission

Chairman:

Derek Mendes da Costa, Q.C., LL.B., LL.M., S.J.D.

Vice Chairman:

Honourable George A. Gale, C.C., Q.C., LL.D.

Members:

Honourable Richard A. Bell, P.C., Q.C.

W. Gibson Gray, Q.C.

Honourable James C. McRuer, O.C., LL.D., D.C.L.

William R. Poole, Q.C.

Function

The Ontario Law Reform Commission was established as an independent Commission in 1964 to inquire into and consider any matter relating to:

- reform of the law having regard to the statute law, the common law and judicial decisions;
- the administration of justice;
- judicial and quasi-judicial procedures under any Act; or
- any subject referred to it by the Attorney General.

Over the last 14 years, the Commission has studied a broad range of topics, and has published 53 separate reports containing recommendations for law reform. Many reports have been implemented and have formed the basis for both new legislation and for amendments to existing statutes. Examples of this implementation include The Age of Majority and Accountability Act, The Children's Law Reform Act, 1977, The Marriage Act, 1977, The Family Law Reform Act, 1978, and legislation governing landlord and tenant law.

Activities during 1977-78

In the past fiscal year, substantial progress has been made towards completion of major projects; in particular, the Commission has devoted much time to the Minister's Reference on the Sale of Goods and to its project on the Law of Trusts.

Work continues on the Reference from the Minister on Class Actions, and on the related project on the Law of Standing. The Commission's project on Products Liability, which was commenced early in this fiscal year, is also well advanced.

The Commission has decided to undertake a project on the administration of estates of deceased persons. Research has commenced on this important topic.

Throughout the year, work has continued on other projects initiated by the Commission, including the Enforcement of Judgment Debts and Declarations of Marital Status.

The Commission has experienced deep satisfaction in the enactment, during the last year, of legislation concerning matters upon which we have previously reported: The Marriage Act, 1977, The Children's Law Reform Act, 1977 and The Family Law Reform Act, 1978. We are gratified that so many of the recommendations contained in our Reports on Marriage, Children, Family Property Law, Support Obligations and Torts found acceptance by the Legislature. Reference should also be made to The Succession Law Reform Act, 1977, and, in this context, to our Reports on Family Property Law, the Proposed Adoption in Ontario of the Uniform Wills Act, the International Convention providing a Uniform Law on the Form of International Will and the Impact of Divorce on Existing Wills.

As in former years, the Commission has derived valuable assistance from its contact with law reform agencies throughout the world, with the Uniform Law Conference of Canada, and with members of the profession and the public.

Full Report Available

A full report for the fiscal year 1977-78 is available from the Ontario Law Reform Commission or the Government of Ontario Bookstore.

Ontario Municipal Board

Chairman:

W. Shub, Q.C.

Vice-Chairmen:

A.H. Arrell, Q.C.

F.G. Blake (retired December 31, 1977)

A.L. McCrae

W.T. Shrives

W.H.J. Thompson, Q.C.

B.E. Smith

D.S. Colbourne

D.D. Diplock, Q.C.

Members:

S.S. Spiegel

H.H. Lancaster

P.M. Brooks

A.B. Ball

H.E. Stewart

C.G. Ebers, Q.C.

H.W. Kelly, Q.C.

J.A. Wheeler

E.A. Seaborn

A.J.L. Chapman, Q.C.

M. Corbett (resigned September 30, 1977)

W.E. Dyer, Q.C.

C.G. Charron, Q.C.

J. Wadds

K.D. Bindhardt

W.L. Blair

Establishment

Under the authority of The Ontario Municipal Board Act.

Primary Jurisdiction

The Ontario Municipal Board Act, The Municipal Act, The Planning Act, The Assessment Act and diverse Ontario statutes including special legislation.

Functions

To effect the growth and economic stability of municipalities in various fields:

1. Municipal Structure

Constitution, alteration of boundaries and dissolution of municipalities.

2. Capital Expenditure

Financial supervisory role, approval of capital undertakings and the manner of recovery.

3. Planning Administration

Approval of restricted area by-laws, official plans and plans of subdivisions, and appeals from land division committees and committees of adjustment.

4. Assessment Appeals

5. Miscellaneous Applications

Appeals

1. Divisional Court on matters of law and jurisdiction.

2. Petition to Lieutenant Governor in Council.

3. Application to board for rehearing.

1977 Calendar Year

Number of applications — 8,586

Number of hearings — 1,996

The board's annual report is available for more detail.

Assessment Review Court

Chairman:

B.H.B. Bowlby, Q.C.

Vice-Chairman:

G.C. Hewson

Vice-Chairman part-time:

S.R.R. McNeil

Members part-time:

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Jurisdiction

The Assessment Review Court was established under The Assessment Act, 1968-69, and continues under The Assessment Review Court Act, 1972. This Court is an administrative tribunal which draws its jurisdiction from The Assessment Act and The Municipal Act.

The responsibility of the Court is to hear and determine:

1. complaints against real property assessment for the basis of municipal taxation in Ontario at the least cost to the taxpayer;

2. appeals from municipal clerks' refusal to amend the list showing school support for school board taxation;

Boards and Commissions

- 3. the apportionment of municipal taxes or rates applicable to individual parcels where land has been assessed in block;
- 4. when authorized by municipal by-law (or by way of an appeal from the decision of a municipal council), applications for cancellation, reduction or refund of municipal taxes; and, when authorized by a municipal council (or by way of an appeal from the decision of a municipal council), applications for an increase in municipal taxes where gross or manifest errors have been made in the collectors' roll.

Administrative Functions

In addition to their duties and responsibilities regarding the processing and scheduling for hearing of assessment complaints, the Regional Registrars of the Court certify the last revised assessment roll of each municipality and also process and schedule all assessment appeals to County or District Court Judges within the Province under Section 55 of The Assessment Act.

Summary of Activities

The following is a brief report of the activities of the Court during the period April 1, 1977, to March 31, 1978.

1. Court Sittings

During the year the Court sat for 1,708 days in various municipalities throughout the Province and heard and determined 127,399 complaints, appeals and applications.

The Regional Registrars processed and scheduled complaints against assessment under Sections 44 and 52 and processed and scheduled appeals to the county or district judge under Section 55 of The Assessment Act.

During this period, as in 1976-77, the Assessment Review Court experienced a further considerable increase over former years in complaints relating to all properties and, in particular, complaints relating to income producing properties such as apartment houses, office buildings and hotels. At the same time, more taxpayers were represented by professional agents, tax consultants and counsel.

No municipalities were proclaimed at market

value for assessment purposes during this period.

2. Training and Development of Court Members and Staff

During this period, groups of Court members attended instructional one-day seminars in Niagara-on-the-Lake, Thunder Bay, Sudbury, Kingston, Toronto and Kitchener.

Regional Registrars and Assistant Regional Registrars attended instructional seminars in Orillia and Toronto.

Clerks of the Court attended instructional one-day seminars in Thunder Bay and Hamilton.

3. Administrative Matters

During this period, the Court continued to review the procedures being followed at Court hearings and continued the special assignment hearings in Toronto, Newmarket, Mississauga, Ottawa, Windsor and London with special emphasis on individual assignment hearings with tax consultants, agents and counsel for the complainants to expedite the scheduling of hearings of complaints to avoid conflict of dates for counsel and agents and the Assessment Branch of the Ministry of Revenue.

A summary of Assessment Review Court complaints and appeals is set out in Schedule A.

The purpose of The Assessment Review Court is to hear and determine complaints relating to assessments throughout the Province as soon as may be practicable. With the increase in complaints each year, the main difficulty arises in scheduling the hearings of the Court in better weather conditions and disposing of them at a peak of activity in the spring months.

There have been no changes in legislation to affect the operation of the Court in this period of April 1, 1977, to March 31, 1978.

Summary of Assessment Review Court Complaints and Appeals

	1975-76	1976-77	1977-78
Section 52 of The Assessment Act (I)	58,212	65,197	81,998
Section 42, 43 of The Assessment Act (II)	16,436	6,616	8,013

Sections 516, 547, 636a, 636b of The Municipal Act (III)	18,410	35,227	37,388
Total	93,058	107,040	127,399

Footnotes:	(I)	This section deals with complaints against annual assessment made under Section 40 of the Act.	
	(II)	These sections deal with complaints against additional assessment under Sections 42 and 43 of the Act.	
	(III)	These sections deal with applications and appeals relating to:	
	(a)	School support	
	(b)	Apportionment of municipal taxes	
	(c)	Cancellation, reduction or refund of municipal taxes	
	(d)	Increase in municipal taxes by reason of clerical errors.	

Summary of Appeals to County and District Court Judges (Section 55 of The Assessment Act)

1975-76	1976-77	1977-78
3,723	4,546	10,245

Criminal Injuries Compensation Board

Chairman:

Allan Grossman

Vice-Chairman:

Shaun MacGrath

Vice-Chairman (part-time):

S. David Cork

Members (part-time):

Anne Austin,

Audrey Merrett,

Edward W. Tyrrell, Q.C.

Douglas H. Lissaman, Q.C.

The Board, composed of two full-time and five part-time members, administers The Compensation for Victims of Crime Act, 1971, which succeeded The Law Enforcement Compensation Act, 1967.

Function of Board

The Board decides whether applicants for compensation are eligible and the amount to be awarded. Compensation is awarded, for personal

injury only, when a person in Ontario is injured or killed as a result of a crime of violence which is an offence under the Criminal Code of Canada. Injuries caused by a motor vehicle are excluded by the Act unless the vehicle is used as a weapon. Compensation may also be awarded when a person is hurt while lawfully arresting or attempting to arrest someone for an offence against another person; when a person is injured while assisting a law officer; or when someone is injured while preventing or trying to prevent an offence against another person.

Hearings

Hearings of the Board are public except where a public hearing would be prejudicial to a trial, or in cases involving sexual offences. They are held in Toronto and, when practicable, in such centres as Thunder Bay, Sudbury, Sault Ste. Marie, Ottawa and Windsor, where hearings took place in the year under review.

Productivity

The relocation of the Board offices to new premises caused some disruption in operations which resulted in fewer applications being heard than in the previous fiscal year. The awards increased by 13 per cent from \$1,423,640 to \$1,611,836 and the average award rose from \$1,958 to \$2,328 or 19 per cent.

Annual Report

This report is available from the Board's offices at 439 University Avenue, 17th Floor, Toronto M5G 1Y8. Telephone: 965-4755. Brochures in various languages are also available from the Board and can be found in court houses, police stations, legal aid offices, and a number of other public buildings throughout Ontario.

Boards and Commissions

Comparative Summary – Fiscal Years Applications and Disposition

	April 1, 1974 to March 31, 1975	April 1, 1975 to March 31, 1976	April 1, 1976 to March 31, 1977	April 1, 1977 to March 31, 1978
Applications under investigation on April 1	426	599	914	1188
Eligible applications received	639	851	971	1105
Applications heard (1)	381	473	611	570
Applications heard and dismissed	40	75	63	52
Applications heard -- further evidence required	6	1	5	nil
Second hearings	8	4	4	nil
Review of awards	1	1	6	12
Decisions completed and awards ordered (2)	349	451	609	563
Files closed	85	63	86	223
Interim awards	nil	3	8	1
Supplementary awards	12	19	25	26
Periodic awards	16	12	21	19
Lump sum payments	\$561,114.03	\$708,640.29	\$1,192,840.37	\$1,310,698.60
Periodic payments	165,814.00	194,038.00	230,800.56	301,138.28
Total of awards ordered	726,928.03	902,678.29	1,423,640.93	1,611,836.88
Average award (3)	1,607.77	1,425.84	1,958.69	2,328.06
Applications under investigation March 31	599	914	1188	1500

- Note: (1) Includes Heard and Dismissed and Heard but Further Evidence Required.
(2) Includes Interim, Supplementary and Periodic Awards.
(3) Periodic Payments not included when arriving at Average Award.

Land Compensation Board

Chairman:
R.M. McGuire
(Appointed Vice-Chairman July 1, 1977)
(Appointed Chairman January 4, 1978)
J.S. Yoerger
(Retired January 3, 1978)
(Appointed V.C. January 4, 1978 – 1 year)
Vice-Chairmen:
Roy Grant
(Appointed July 1, 1970)
Gordon Ford
(Retired December 2, 1977)
James Worrall
(Appointed January 1, 1977)
Members:
Grant Campbell
(Appointed February 1, 1975)
J. Dobbs
(Appointed January 4, 1978)
George Hobart
(Appointed May 1, 1970)

G.P. Marriott
(Appointed May 1, 1970)
D.W. Middleton
(Appointed May 1, 1970)
E.H. Reed
(Appointed May 1, 1970)
James A. McConaghy
(Retired December 31, 1977)

Registrar:
C.E. Warner

Established

Under the authority of The Expropriations Act,
December 1, 1970.

Function

Arbitration tribunal to determine compensation
to be paid in the expropriation of property
in the Province.
There were a number of retirements and
appointments occurring during the fiscal year
which resulted in some adjustments in the
scheduling of hearings, provision having to be

made for the completion of outstanding hearings and decisions. Upon his retirement as Chairman, Mr. Yoerger was retained as a part-time vice-chairman to assist in bridging the transition period.

Some procedural changes were introduced in this calendar year in an attempt to reduce the number of hearing cancellations, particularly those that might have been foreseen by the parties and thereby improving the effectiveness of the Board. The Board is now insisting that prior to scheduling a hearing that with the certificate of readiness there be a statement that all interlocutory proceedings have been completed and that appraisal reports are in hand. Because of the required advance scheduling of about six months the effects of this change are not yet apparent.

Notices of arbitration filed	114
Applications outstanding March 31, 1977	344
Applications outstanding March 31, 1978	349

Board of Negotiation

Chairman:
W.C. Dymond

Members:
J.M. Bennett
J.A. Ferguson
F.L. Heaman
W.J. Mowat
G.W. Swayze

Function

The Board of Negotiation was created by the provisions of The Expropriations Act, 1968-69. It provides an informal tribunal which, without prejudice to any subsequent arbitration procedures, may negotiate in a summary and informal manner settlement of a compensation in expropriation cases.

Informality

The Board, upon receiving a written request from either party, arranges meetings between the expropriated party and the expropriating authority. A formal notice is issued to both parties, advising them of the time and place of

the meeting, which can be held throughout the province without cost to either party. A unique provision of the Act provides that the Board shall view the property in question.

An individual may appear on his own behalf to present his compensation claim. If no agreement follows these informal negotiations, the parties are free to proceed to arbitration to the Ontario Land Compensation Board.

Activity Report – Monthly Breakdown Fiscal Year April 1, 1977 – March 31, 1978

	Requests for Hearings Received	Meetings Held
April	9	22
May	28	16
June	17	14
July	15	15
August	6	8
September	9	20
October	8	10
November	5	9
December	9	3
January	14	7
February	10	6
March	18	7
	148	137

Note: At the end of March 31, 1978, there were 30 files left in process:
 – Six of the 30 were to be scheduled
 – Twenty-four were scheduled and waiting to be held

Boards and Commissions

Activity Report — Fiscal Year 1977-1978

Expropriating party	Number of Applications
Corporation of the City of Belleville	2
Brampton	1
Burlington	2
Hamilton	1
Kingston	1
London	2
Oshawa	1
St. Thomas	1
Sault Ste. Marie	1
Windsor	1
Corporation of the Township of Gloucester	6
Nepean	1
County of Brant	1
Simcoe	1
Metropolitan Separate School Board	4
Ministry of Government Services	2
Housing	2
Transportation and Communications	65
Municipality of Metropolitan Toronto	21
Ontario Hydro	10
Regional Municipality of Durham	2
Haldimand-Norfolk	1
Niagara	1
Ottawa-Carleton	7
Peel	1
York	2
Union Gas	8
	<u>148</u>

Two-Year Follow-Up Report Fiscal Year 1976-1977

Number of requests for meetings (1976-77)	260
Number of settlements reported following negotiations in the period April 1, 1976 to March 31, 1977	28
Requests for meetings cancelled	42
Balance to be surveyed by Two-Year Follow-Up	190
This Report is based on replies to 190 questionnaires mailed to the Expropriating Authorities from whom we had not heard regarding results of 1976-77 meetings.	
Questionnaires mailed	190
Replies received	173
Unanswered	17
Settlements (Board of Negotiation's Recommendation a factor)	68
Proceeded to, or intending to proceed to Land Compensation Board	47
Still Negotiating	46
In Abeyance, pending, not presently being negotiated	<u>12</u>
	173

Background Papers

French Language Services in Ontario Courts

Although Ontario is not officially a bilingual province, the Government of Ontario has since 1967 pursued a policy of developing a capacity to provide services to its French-speaking citizens in their own language. "Ninety-five per cent of all Canadians of French mother tongue¹ live in Quebec, Ontario, and New Brunswick — 83 per cent in Quebec, eight per cent in Ontario, and four per cent in New Brunswick."² The significance of the eight per cent in Ontario is that it represents 425,000 citizens, almost half of all Canadians of French mother tongue living outside of Quebec.

Some 750,000 Ontario citizens speak both the English and the French languages. Approximately 100,000 of these speak only the French language. A very high proportion of this minority group lives in the northern and eastern parts of Ontario, although these are significant communities in Toronto and in southern and south western Ontario.

In the fall of 1975, a few weeks after his appointment as Attorney General, the Honourable R. Roy McMurtry, Q.C., committed his Ministry to developing French language services in Ontario courts. This initiative comprised not only the development of a capacity to conduct trials in the French language, but the development of bilingual court forms, the design and introduction of a bilingual traffic ticket, and the translation of informational material.

The program began in the Provincial Court (Criminal Division) in Sudbury in the summer of 1976. The Provincial Court (Criminal Division) is the court which deals with almost 98 per cent of the criminal and quasi-criminal cases. Sudbury was selected because of the availability of bilingual judges, Crown Attorneys, defence counsel, and police officers. After a period of testing in Sudbury, the service was expanded to Ottawa, L'Orignal, Hawkesbury and Rockland in June, 1977; to Espanola in September, 1977; and to Cochrane, Kapuskasing, Hearst, Smooth Rock Falls, and Hornepayne in October, 1977. With these locations, 66 per cent of Ontario citizens who speak French only (those with the greatest need in this regard) have access to French language services in that court.

Late last year the service was expanded to the Provincial Court (Family Division) in Sudbury. The Attorney General intends to announce shortly the further expansion of this service to other areas, both for the Criminal Division and the Family Division of the Provincial Court.

Signs are posted in the affected courts advising citizens of their right to elect to be tried in the French language. This election is usually made on the first appearance, at which time the case is assigned to the appropriate trial list and a date set for the hearing.

Further expansion will occur vertically as well as horizontally, based upon the existing bilingual capacity of certain members of the judiciary in both the Supreme Court of Ontario and the County and District Courts of Ontario. This expansion will encompass civil proceedings in addition to the criminal, quasi-criminal, and family law proceedings already included. In order to ensure that this development would proceed on a sound theoretical and practical basis, the Attorney General announced in August, 1977, his decision to form a special advisory committee on French language services in Ontario courts. This committee, composed in part of eminent and experienced trial lawyers designated by the Bar of Quebec and by the Law Society of Upper Canada and chaired by the Deputy Attorney General of Ontario, held a series of meetings beginning in October, 1977.

A little-known section of The Judicature Act, section 127, constitutes a major impediment to the provision of French language services in Ontario. It provides that:

Writs, pleadings and proceedings in all courts shall be in the English language only, but the proper or known names of writs or other process, or technical words, may be in the same language as has been commonly used.

The special advisory committee addressed itself primarily to the question of an appropriate amendment to section 127. A second major impediment is reflected in section 149 of The Judicature Act:

Nothing in this Act affects the practice or procedure in criminal matters or matters connected with Dominion controverted elections.

Background Papers

By virtue of section 91(27) of the B.N.A. Act, Parliament has exclusive jurisdiction to legislate with respect to criminal law and procedure in criminal matters. In 1975, in the case of *Jones v. A.G. of New Brunswick*, the Supreme Court of Canada ruled unanimously that “the language in which criminal proceedings are conducted, whether documents are involved or oral conduct only or both, may be brought within the legislative authority conferred by section 91(27) of the British North America Act”.³ The Court held that the provinces could legislate on these matters so long as Parliament refrains from so doing, and that Parliament’s authority is paramount in the case of any inconsistency between its legislation and that of any province. Parliament has legislated on these matters through provisions in the Official Languages Act⁴ and in the Criminal Code of Canada.⁵

The committee tackled the problem of section 127 of The Judicature Act. It established that the best solution for Ontario at this time would incorporate the following features: a designated area concept to ensure that French language services can be brought in as the necessary support staff and other resources, including a bilingual bench and bar, are developed; a right of the French-speaking litigant to have his testimony heard directly by a bilingual trier of fact (a judge alone or a jury) without the intervention of an interpreter; the recording and transcription for all purposes of French language testimony in that language; and a discretion in the court, in appropriate circumstances, to direct that a trial or an appeal shall proceed exclusively in the French language.⁶

This work by the committee culminated in the introduction on April 25, 1978 of Bill 71, An Act to amend The Judicature Act, and a companion measure, Bill 72, An Act to amend The Juries Act. Bill 72 was designed to authorize sheriffs to prepare a second list of jurors containing the names of those who speak both the French and the English languages. Bills 71 and 72 received Royal Assent and became law on May 26, 1978.

Meanwhile, on April 4, 1978, the Minister of Justice introduced in Parliament Bill C-42, An Act to amend the Criminal Code. Bill C-42 would add Part XIV.1 to the Code and would provide for the language of proceedings in cases arising under the Code. It contains a change of venue provision

which ties in with the designated area concept in Ontario’s Bill 71, by authorizing the Lieutenant Governor in Council of a province to make regulations for carrying into effect the purposes and provisions of Bill C-42, including the change of venue provision. The Minister of Justice acted on this question after receiving inquiries from Mr. McMurtry about the possibility of amendments being made to the Criminal Code to facilitate French language services with respect to criminal proceedings.

As indicated at the outset, the initiative launched in the fall of 1975 included the production of bilingual forms and materials. These include the Questionnaire As To Qualifications For Jury Service; the information booklet *Your Day in Court — Jury Duty*; pamphlets outlining the French language court program; the demerit point schedules relating to metric conversion; the Notice to Drivers under Suspension for a Defaulted Fine; the Undertaking by an Appellant (the first County Court form); the City of Ottawa parking summons (a co-operative undertaking with that City). The Provincial Court (Criminal Division) forms program has been implemented in the following areas: Algoma, Cochrane, Nipissing, Timiskaming, Ottawa-Carleton, Prescott and Russell, Stormont, Dundas and Glengarry. This program provides the 11 forms with which the public comes into contact most frequently. Four additional forms are being translated. Finally, all the forms associated with The Family Law Reform Act, 1978, have been translated and will be available in a bilingual format.

A key ingredient of French language services in the courts is the availability of the law in the French language. The most obvious requirement is a French language version of the Ontario statutes. Until recently individual statutes or parts of statutes have been translated. Thus, for example, The Highway Traffic Act is being translated and will be typed in a “side by side” bilingual format. More significant, however, is the Government’s commitment in the Speech From the Throne on February 21, 1978:

Present government translation services will be augmented to make more public documents, publications and forms available in both French and English. Of particular importance, a special section will be established

to begin work on translating Ontario's statutes into French.

The planning for the implementation of these undertakings has been completed. The special section referred to is to be established as a part of the Ministry of the Attorney General, reporting through the Senior Legislative Counsel. This marks the beginning of a systematic and professional approach to the production of French language translations of the statutes.

As the Ministry's program expands and becomes a significant element of its operations, the need for full time attention and co-ordination becomes evident. In this regard, the necessary steps are being taken to appoint a co-ordinator of French language services for the Ministry. This should ensure that the significant momentum generated to date will be maintained and appropriate attention and study devoted to the further expansion of the program.

The Ministry initiative which was launched in the fall of 1975 has been provided with a formal and

sound statutory basis by the Legislature's approval of Bills 71 and 72. These are landmark measures which serve to confirm our commitment to a proper recognition of the French language in the laws and institutions of Ontario. Consistent with the pragmatic approach alluded to earlier, they ensure that we must continue to look forward only, to enhance established rights and to make provision for their expansion into any area where an unfulfilled need is identified.

FOOTNOTES

- ¹ The term "mother tongue" means the first language learned in childhood and which is still understood.
- ² Report of the Royal Commission on Bilingualism and Biculturalism, Book I, p. 96.
- ³ Jones v. Attorney General of New Brunswick et al. [1975] 2 S.C.R. 182.
- ⁴ See section 11 of the Official Languages Act, R.S.C. 1970, Chap. 0-2.
- ⁵ See sections 555, 556, and 564 of the Criminal Code, R.S.C. 1970, Chap. C-34.
- ⁶ See the text of Bills 71 and 72 which constitutes the Appendix to this background paper.



The O'Original Court House, the oldest remaining courthouse in Ontario, was erected in September, 1825.

BILL 72

1978

An Act to amend The Juries Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 8 of *The Juries Act, 1974*, being chapter 63, is amended ^{s. 8.} amended by adding thereto the following subsection:

(1a) Where the county or Supreme Court is designated in a county or district under section 127 of *The Judicature Act*, the jury roll prepared under subsection 1 shall be divided into two parts and, ^{English and bilingual jury rolls R.S.O. 1970, c. 228}

(a) in one part the sheriff shall include those persons who appear, by the returns to jury service notices, to speak, read and understand the English language; and

(b) in the other part the sheriff shall include those persons who appear, by the returns to jury service notices, to speak, read and understand both the English and the French languages.

2. This Act comes into force on the day it receives Royal Assent. ^{Commence-ment}
3. The short title of this Act is *The Juries Amendment Act, 1978*. ^{Short title}

Loi modifiant la Loi sur les jurys, 1974

Sa Majesté, de l'avis et du consentement de l'Assemblée législative de la province de l'Ontario, décrète:

1. L'article 8 de la *Loi sur les jurys, 1974*, chapitre 63, est modifié par l'adjonction du paragraphe suivant:

a 8
modifié

(1a) Lorsque la cour de comté ou la Cour suprême sont désignées dans un comté ou un district en vertu de l'article 127 de la *Loi sur l'organisation judiciaire*, le tableau des jurés préparé en vertu du paragraphe 1 doit être divisé en deux parties et,

Tableaux
des jurés de
langue
anglaise et
bilingues
S R O 1970
c 228

(a) dans l'une de ces deux parties, le shérif doit inclure celles des personnes qui, selon les réponses aux notifications visant la constitution du tableau des jurés, paraissent parler, lire et comprendre la langue anglaise; et,

(b) dans l'autre de ces deux parties, le shérif doit inclure celles des personnes qui, selon les réponses aux notifications visant la constitution du tableau des jurés, paraissent parler, lire et comprendre la langue anglaise ainsi que la langue française.

2. La présente loi entre en vigueur le jour de sa sanction royale.

Entrée en
vigueur

3. Le titre abrégé de cette loi est *Loi d'amendement sur les jurys, 1978*.

Titre
abrégé

BILL 71

1978

An Act to amend The Judicature Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 127 of *The Judicature Act*, being chapter 228 of the Revised Statutes of Ontario, 1970, is amended by adding at the commencement thereof "Subject to subsections 2 to 9". s. 127, amended

(2) The said section 127 is further amended by adding thereto the following subsections: s. 127, amended

(2) The Regional Municipality of Ottawa-Carleton, The United Counties of Prescott and Russell, the United Counties of Stormont, Dundas and Glengarry and the Territorial Districts of Algoma, Cochrane, Nipissing, Sudbury and Timiskaming and such additional counties and districts as are designated by the Lieutenant Governor in Council under subsection 3 are designated counties and districts for the purposes of this section. Designated counties and districts

(3) The Lieutenant Governor in Council may designate, Designation of courts and additional counties and districts

(a) counties and districts in addition to those named in subsection 2; and

(b) courts in a designated county or district,

for the purposes of this section.

(4) In a proceeding in a designated court, or in any court to which an appeal therefrom is made, the court shall, upon the application of a party who speaks the French language, direct that the hearing in the proceeding be conducted before a judge who speaks both the English and French languages or, where there is a jury, before a judge and jury who speak both the English and French languages. Bilingual trier of fact

(5) Except by leave of the court, an application under subsection 4 shall be made, Time of application

(a) where the proceeding is in the Supreme Court or a county or district court before the giving of a jury notice or, if none, before the proceeding is set down for trial;

- (b) where the proceeding is in a court other than the Supreme Court or a county or district court, before the hearing of any evidence in the proceeding.
- (6) Where an application is made under subsection 4 and ^{Hearing in French language} in addition to a direction made thereunder, the court may direct,
- (a) that the hearing or any part of the hearing be in the French language if, in the opinion of the court, the hearing or part can be so conducted effectually; and
- (b) that subsection 7 apply to oral evidence given in examinations for discovery or in any other pre-hearing stage of the proceeding.
- (7) Evidence given in the French language in a proceeding ^{Evidence recorded in French} in respect of which a direction is made under this section shall be received and recorded in the French language and shall be transcribed in that language for all purposes.
- (8) Any document filed by a party in a proceeding in a small claims court in a designated county or district may ^{Pleadings in French} be in the French language.
- (9) The Lieutenant Governor in Council may make regulations ^{Bilingual forms} prescribing forms of documents or of parts of documents in both the English and the French languages for use in or relating to proceedings in designated courts and requiring their use.
2. This Act comes into force on the day it receives Royal Assent. ^{Commencement}
3. The short title of this Act is *The Judicature Amendment Act, 1978*. ^{Short title}

PROJET DE LOI 71

1978

Loi modifiant la Loi sur l'organisation judiciaire

Sa Majesté, de l'avis et du consentement de l'Assemblée législative de la province de l'Ontario, décrète:

- 1.—(1) L'article 127 de la *Loi sur l'organisation judiciaire*, chapitre 228 des Statuts révisés de l'Ontario, 1970, est modifié par l'adjonction, au commencement dudit article, des mots "Sous réserve des paragraphes 2 à 9". a. 127
modifié
- (2) Ledit article 127 est modifié de plus par l'adjonction des paragraphes suivants: a. 127
modifié
- (2) La municipalité régionale d'Ottawa-Carleton, les comtés unis de Prescott et Russell, les comtés unis de Stormont, Dundas et Glengarry et les districts territoriaux d'Algoma, Cochrane, Nipissing, Sudbury et Timiskaming, de même que ceux des comtés et districts additionnels qui sont désignés par le lieutenant-gouverneur en conseil en vertu du paragraphe 3, sont des comtés et districts désignés aux fins de cet article. Comtés
et
districts
désignés
- (3) Le lieutenant-gouverneur en conseil peut désigner Désignation
de tribunaux
et de comtés
et districts
additionnels
- (a) des comtés et districts en plus de ceux cités dans le paragraphe 2; et
- (b) des tribunaux dans un comté ou district désigné,
- aux fins de cet article.
- (4) Dans toute procédure devant un tribunal désigné, ou devant tout tribunal saisi d'un appel d'une décision prononcée par ledit tribunal désigné, le tribunal doit, sur la requête d'une partie qui parle la langue française, ordonner que l'audience, dans ladite procédure, soit tenue devant un juge qui parle les langues anglaise et française ou, dans le cas d'un procès par jury, devant un juge et un jury qui parlent les langues anglaise et française. Juge et
jury
bilingues
- (5) À moins d'une autorisation du tribunal, la requête prévue au paragraphe 4 doit être déposée, Délai fixe
pour le
dépôt de
la requête
- (a) lorsque la procédure est devant la Cour suprême ou devant une cour de comté ou de district, avant la notification de tenue du procès devant un jury ou, s'il ne s'agit pas de procès par jury, avant que la cause ait été mise au rôle;

(b) lorsque la procédure est devant un tribunal autre que la Cour suprême ou une cour de comté ou de district, avant l'audition de toute déposition de témoins dans la procédure.	
(6) Lorsqu'une requête est déposée en vertu du paragraphe 4, et en sus d'une ordonnance émise en vertu dudit paragraphe, le tribunal peut ordonner	Audience en langue française
(a) que l'audience, ou toute partie de l'audience, soit tenue en langue française si, de l'avis du tribunal, l'audience, ou la partie de l'audience, peut être conduite ainsi de manière efficace; et	
(b) que le paragraphe 7 s'applique aux dépositions orales faites au cours d'interrogatoires préalables ou de tout autre stade de préenquête de la procédure.	
(7) Les dépositions faites en langue française dans une procédure, à l'égard de laquelle une ordonnance a été émise en vertu de cet article, doivent être recueillies et enregistrées en langue française et doivent être transcrites en cette langue, à toutes fins.	Preuve enregistrée en langue française
(8) Tout document déposé par une partie dans une procédure devant la cour des petites créances dans un comté ou district désigné peut être rédigé en langue française.	Plaidoiries en français
(9) Le lieutenant-gouverneur en conseil peut émettre des règlements stipulant le format de documents ou de parties de documents dans les langues anglaise et française pour être utilisés dans des procédures, ou se rapportant à de telles procédures, devant des tribunaux désignés, et requérant leur utilisation.	Formules bilingues
2. La présente loi entre en vigueur le jour de sa sanction royale.	Entrée en vigueur
3. Le titre abrégé de cette loi est " <i>Loi d'amendement sur l'organisation judiciaire, 1978</i> ".	Titre abrégé

Background Papers

Family Law Reform

On March 31, 1978, The Family Law Reform Act came into force. Together with The Unified Family Courts Act, The Succession Law Reform Act, The Children's Law Reform Act and the passage of The Marriage Act, the Government of Ontario has completed a comprehensive series of family law reforms that are unparalleled in any common law jurisdiction. Future reforms relating to custody, access and guardianship law which the Attorney General plans to introduce in the very near future will complete the family law program and updating of the law to reflect society's needs today.

Problem of Translating Social Values Into Law

Until recently, family law remained fixed in the Victorian Age which regarded women as satellites of their husbands and not as having separate, independent legal personalities. Children were essentially viewed as chattels. Over the years the changing perceptions of society with respect to the role of the family created a broad gap between the law and modern social values. While it became increasingly clear that laws which govern families must change, arriving at a consensus as to just what that change should be was a long and arduous task.

O.L.R.C. Study of Family Law

In 1965, the program of family law reform was begun when the Ontario Law Reform Commission undertook to analyze the existing law and to make recommendations as to what the law should be. In all, six reports were produced by the Commission. They are Torts (1969), Marriage (1970), Children (1973), Family Property Law (1974), Family Courts (1974), and Support Obligations (1975). As the reports were received they were tabled in the Legislature by the Attorney General. Following the tabling of these reports, a most extensive public consultation process was undertaken.

Obtaining the Views of the Public

Because family law touches everyone, unprecedented efforts were made to obtain as much public input as possible. Beginning in April, 1974, a number of widely-advertised public meetings were held throughout the province to provide background on the issues and to discuss with the

public the Commission's recommendations. At the same time, with the co-operation of the Ontario Committee on the Status of Women, a booklet summarizing the main recommendations of the Commission was distributed to the public. A film was produced which illustrated the existing

law and the effect of reform in typical family situations. More than 30 copies of this film were in constant circulation to various interested groups throughout the province over a period of two years and the film was shown on local television in several areas. In addition, a media campaign was conducted in the newspapers and on local radio talk shows.

In October, 1974, the Ontario Council on the Status of Women held a conference at which members of the Ministry of the Attorney General participated for the purpose of assisting women from across the province to study the proposal. Response from members of the public generally, and from women's groups, was substantial.

The Commencement of the Legislative Process

The Family Law Reform Act, 1975

As an initial step, pending preparation of more comprehensive legislation, The Family Law Reform Act, 1975, was passed and proclaimed in force July 10, 1975. That Act declared the principle of equal status and capacity in law for spouses of both sexes and abolished many of the legal disabilities of married women. The Act allowed recognition of the non-financial contributions of one spouse in work, money or money's worth to property held in the name of the other spouse, thus preventing in Ontario decisions such as the Supreme Court of Canada's controversial decision in *Murdoch vs. Murdoch*.

The Family Law Package

Having obtained the best available information and guidance from the public, the Policy Development Division of the Ministry reappraised the whole area of family law and developed a comprehensive package of legislative proposals.

In the fall of 1976, the Attorney General introduced The Marriage Act, which included provision for raising the minimum age for marriage; The Succession Law Reform Act, which updated and replaced The Wills, Devolution of Estates, Survivorship, and Dependents' Relief Acts; and the

proposals embodied in The Family Law Reform Act. With respect to division of family property, these proposals included recognition of the inherent mutual contributions by the spouses in a marital relationship and gave each spouse the right to an equal division of family assets upon marriage breakdown. Similarly, support obligations were based not on factors of conduct but on the core of mutual obligations between spouses and between parents and children. The matrimonial home, as the focal point of shelter for the family, was given special treatment in order to ensure that both spouses would have the right to reside in and to control dealings with respect to the home, irrespective of the manner in which title was taken. Men and women were also given the power to tailor domestic contracts, subject only to general overriding principles of public policy.

At the same time as the family law package was introduced, the Attorney General tabled an informational booklet on the proposed family law reforms. Each member of the Legislature and every lawyer in the province received a copy. As well as distributing more than 50,000 English-language copies to members of the public, the proposals were also available and distributed in the French-language. Later on, in December, 1976, The Children's Law Reform Act, which abolished the status of illegitimacy and gave all children equal rights whether or not they were born within marriage, was introduced.

Again, response from members of the public was most helpful. Further, many comments and suggestions were received from the Family Law, the Real Estate, and the Wills and Trust sub-sections of the Ontario Branch of the Canadian Bar Association, from judges and lawyers practising in the area of family law, from women's groups, and from single fathers' associations.

The family law package was referred to the Legislature's Standing Committee on the Administration of Justice in December, 1976, and many members of the public and representatives of various associations personally presented briefs to the Standing Committee. The bills died when the Session prorogued at the end of 1976.

The Unified Family Court Act

In the meantime, the government had also been considering reforms in the procedures by which family law disputes are resolved by the courts.

Often, because different courts have different areas of jurisdiction in family law matters, spouses must start proceedings in different courts and go through two or more hotly-contested trials before all the issues in their dispute are finally laid to rest. The Unified Family Court Act, S.O. 1976, c. 85, provided a family court that has the necessary range of support services to assist spouses to come to a negotiated settlement of their problems whenever possible. This bill was introduced in December of 1976 and received third reading that same month. Various sections of the Act were proclaimed in force January 17, 1977, with the remainder coming into force July 1, 1977. It created, with the assistance of the federal Minister of Justice, a three-year developmental project in Hamilton which enabled the exercise of all family law jurisdiction in one court. The Ministry of the Attorney General hopes to be able to extend the Unified Family Court across Ontario, based upon the apparent success to date of the concept in operation.

Reintroduction in the Legislature

During the interval between the end of 1976 and the commencement of the Spring Session in March of 1977, the comments and suggestions made with respect to the family law package were analyzed and considered thoroughly. As a result, some amendments to the legislation were made prior to reintroduction. The period of time during which the Legislature was prorogued pending a general election allowed time for further consultation. The family law package was again introduced into the Legislature in the fall of 1977. The Succession Law Reform Act, The Children's Law Reform Act and The Marriage Act were given third reading on November 1, 1977. The Family Law Reform Act was once again referred to the Legislature's Standing Committee on the Administration of Justice for further consideration in January of 1978.

Passage of the Family Law Reform Act

After further public hearings before the Standing Committee on the Administration of Justice, amendments to the proposed Family Law Reform Act once again were made to reflect the interests and concerns that had arisen and, finally, on March 16, 1978, the bill received third reading. Along with The Family Law Reform Act, The Children's Law Reform Act and The Succession

Background Papers

Law Reform Act came into force on March 31, 1978. The Marriage Act was proclaimed August 1, 1978.

Bringing the Law to the People

The process of public involvement did not cease with the passing of The Family Law Reform Act. Members of this Ministry assisted representatives of the Law Society of Upper Canada in planning, writing and delivering a series of one-day programs to lawyers in Toronto, Ottawa, London, Sault Ste. Marie and Thunder Bay. These programs familiarized the practising bar not only with the contents of the Act, but with the regulations and rules of practice which had been developed in conjunction with the final Act and which are so essential in making the Act work on a daily basis. Members of this Ministry also participated in affirmative action seminars and in training programs for the judiciary, court administrators, parental support workers, welfare administrators, public housing officials and agricultural officials.

Equally important have been our efforts to familiarize the general public with the changes which have been made on their behalf. The Ministry of the Attorney General has developed a booklet containing a detailed explanation and the full text of the Act. In addition, a pamphlet highlighting the changes under The Family Law Reform Act, Children's Law Reform Act, Succession Law Reform Act and Marriage Act is being distributed. Both the pamphlet and booklet are entitled Family Law Reform: Your New Rights and are available in English and French.

The availability of these publications has been well-advertised on radio and in the newspapers with the result that hundreds of thousands of copies have been distributed throughout the province. It has become an essential feature of law programs for high school students and a focal point for discussion at teacher education conferences such as the one on Sex Role Stereotyping held on September 28 and 29, 1978.

Members of the Ministry have willingly participated in assisting various groups to obtain speakers to discuss the new Act and have themselves spoken to various groups on television talk shows and open-line radio programs in both French and English. In addition, they have responded on a daily basis to a deluge of telephone and written inquiries from the public.

A film depicting a couple whose marriage has broken down as discuss their rights and obligations towards each other and their children has been produced. This film and a teaching kit are available for use by high schools, libraries, and groups throughout the province. The foregoing reflects the development in Ontario of a unique and unprecedented process of consultation. It was a "felt need" in view of the major changes proposed to an area of the law which is all-pervasive in its impact on society, and because such a process of consultation is a vital ingredient of sensible and effective law-making. A key ingredient of this process was an unparalleled effort to "bring the law to the people" — to seek to inform citizens in order that they might be more aware of their rights and obligations under the law.

The debate on these vital issues in Ontario did not pass unnoticed elsewhere in Canada. It had both a crucible effect in refining arguments, positions, and concepts, and a demonstrative effect. The "family assets" concept, which provides that property normally used and enjoyed by the family while living together should be shared equally in the event the marriage breaks down, and the discretion given to the courts to order the sharing of other property in recognition of an indirect contribution due to homemaking, are features of the new family law reforms adopted in British Columbia and Prince Edward Island. The comprehensive Family Relations Act of British Columbia, Bill 22, was introduced on June 20, 1978, and was given second and third reading eight days later on June 28. Passage was swift, the way having been cleared by the debate which had occurred in Ontario and elsewhere in Canada.

Appendix

Acts Administered by the Ministry of the Attorney General

Absconding Debtors Act
Absentees Act
Accidental Fires Act
Accumulations Act
Administration of Justice Act
Age of Majority and Accountability Act, 1971
Aliens' Real Property Act
Anti-Inflation Agreement Act, 1976
Arbitrations Act
Architects Act
Assessment Review Court Act, 1972
Assignments and Preferences Act

Bail Act
Barristers Act
Blind Persons' Rights Act, 1976
Bulk Sales Act
Business Records Protection Act

Change of Name Act
Charitable Gifts Act
Charities Accounting Act
Children's Law Reform Act, 1977
Commissioners for Taking Affidavits Act
Compensation for Victims of Crime Act, 1971
Constitutional Questions Act
Conveyancing And Law of Property Act
Costs of Distress Act
County Court Judges' Criminal Courts Act
County Courts Act
County Judges Act
Creditors' Relief Act
Crown Administration of Estates Act
Crown Agency Act
Crown Attorneys Act
Crown Witnesses Act

Devolution of Estates Act
Disorderly Houses Act
Dominion Courts Act

Escheats Act
Estreats Act
Evidence Act
Execution Act
Expropriations Act
Extra-Judicial Services Act

Factors Act
Family Law Reform Act, 1978
Fatal Accidents Act
Fines and Forfeitures Act
Fraudulent Conveyances Act
Fraudulent Debtors Arrest Act
Frustrated Contracts Act

Gaming Act
General Sessions Act

Habeas Corpus Act
Hospitals and Charitable Institutions Inquiries Act
Hotel Registration of Guests Act

Infants Act
Innkeepers Act
Interpretation Act

Judges' Orders Enforcement Act
Judicature Act
Judicial Review Procedure Act, 1971
Juries Act, 1974
Justices of the Peace Act

Landlord and Tenant Act
Law Society Act
Legal Aid Act
Libel and Slander Act
Limitations Act
Lord's Day (Ontario) Act

Master and Servant Act
Matrimonial Causes Act
Mechanics' Lien Act
Mental Incompetency Act
Mercantile Law Amendment Act
Ministry of the Attorney General Act
(formerly Department of Justice Act)
Minors Protection Act
Mortgages Act
Municipal Conflict of Interest Act, 1972

Negligence Act
Notaries Act

Ontario Law Reform Commission Act
Ontario Municipal Board Act

Partition Act
Partnership Act
Pawnbrokers Act

Appendix

Perpetuities Act
Petty Trespass Act
Powers of Attorney Act
Proceedings Against the Crown Act
Professional Engineers Act
Property and Civil Rights Act
Provincial Courts Act
Public Accountancy Act
Public Authorities Protection Act
Public Halls Act
Public Inquiries Act, 1971
Public Institutions Inspection Act, 1974
Public Officers Act
Public Officers' Fees Act
Public Trustee Act

Quieting Titles Act

Reciprocal Enforcement of Judgments Act
Reciprocal Enforcement of Maintenance Orders
Act

Regulations Act
Religious Institutions Act
Replevin Act

Sale of Goods Act
Settled Estates Act
Sheriffs Act
Short Forms of Conveyances Act
Short Forms of Leases Act
Short Forms of Mortgages Act
Small Claims Courts Act
Solicitors Act
Statute of Frauds
Statutes Act
Statutory Powers Procedure Act, 1971
Succession Law Reform Act, 1977
Summary Convictions Act
Surrogate Courts Act

Ticket Speculation Act
Time Act
Trustee Act

Unconscionable Transactions Relief Act
Unified Family Court Act, 1976
University Expropriation Powers Act

Variation of Trusts Act
Vendors and Purchasers Act
Vexatious Proceedings Act
Vicious Dogs Act

Wages Act
Warehousemen's Lien Act
Warehouse Receipts Act



Ministry of the
Attorney
General

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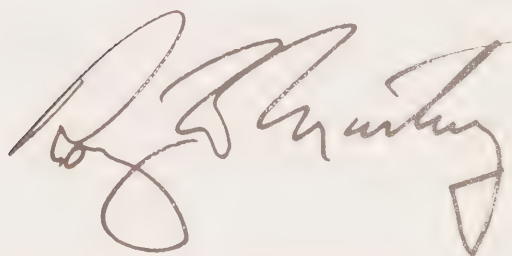
annual report

2018-19

To Her Honour the Lieutenant Governor in
Council

May it please Your Honour:

It is my pleasure to present to your Honour the
Annual Report of the Ministry of the Attorney
General for the year 1978-79.

A handwritten signature in dark ink, appearing to read 'R. Roy McMurtry'. The signature is fluid and cursive, with a large loop at the end.

The Honourable R. Roy McMurtry, Q.C.
Attorney General





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Letter from the Deputy Attorney General

October, 1979

The Honourable R. Roy McMurtry, Q.C.
Attorney General for Ontario,
18th Floor, 18 King Street East,
Toronto, Ontario.

Dear Mr. Attorney,

In accordance with the provisions of section 7 of The Ministry of the Attorney General Act, I am pleased to be able to present to you the Annual Report of the Ministry for the year 1978-1979.

The year has been one of continuing challenge for the Ministry. In many areas, reforms and improvements were made which will ensure that our services meet the current needs of the people of Ontario. We have made continuing progress in our goal to promote greater citizen access to justice. We have expanded the services which we offer in the French language to those many Ontarians whose first language is French. We have embarked on a pilot project to improve and extend the work of the Small Claims Court. And the passage of the Provincial Offences Act during the year will make major demands on many of our staff, but it is sure to have a significant impact across the province.

In the long term, perhaps the most important work of the past year has been the new initiatives in federal-provincial relations. The Ministry has been closely involved in the formulation of an Ontario position on constitutional reform. We have also worked with our colleagues in the federal and provincial governments on ways of reducing overlaps and duplications in the services connected with the administration of justice.

Finally, I would like to pay tribute to the great contributions which have been made by all our employees to the successful operation of the Ministry. Maintaining and improving our operations has not been an easy task at this time of burgeoning caseloads and pressures on resources. Their success in this task is amply demonstrated in this Annual Report.

All of which is respectfully submitted.

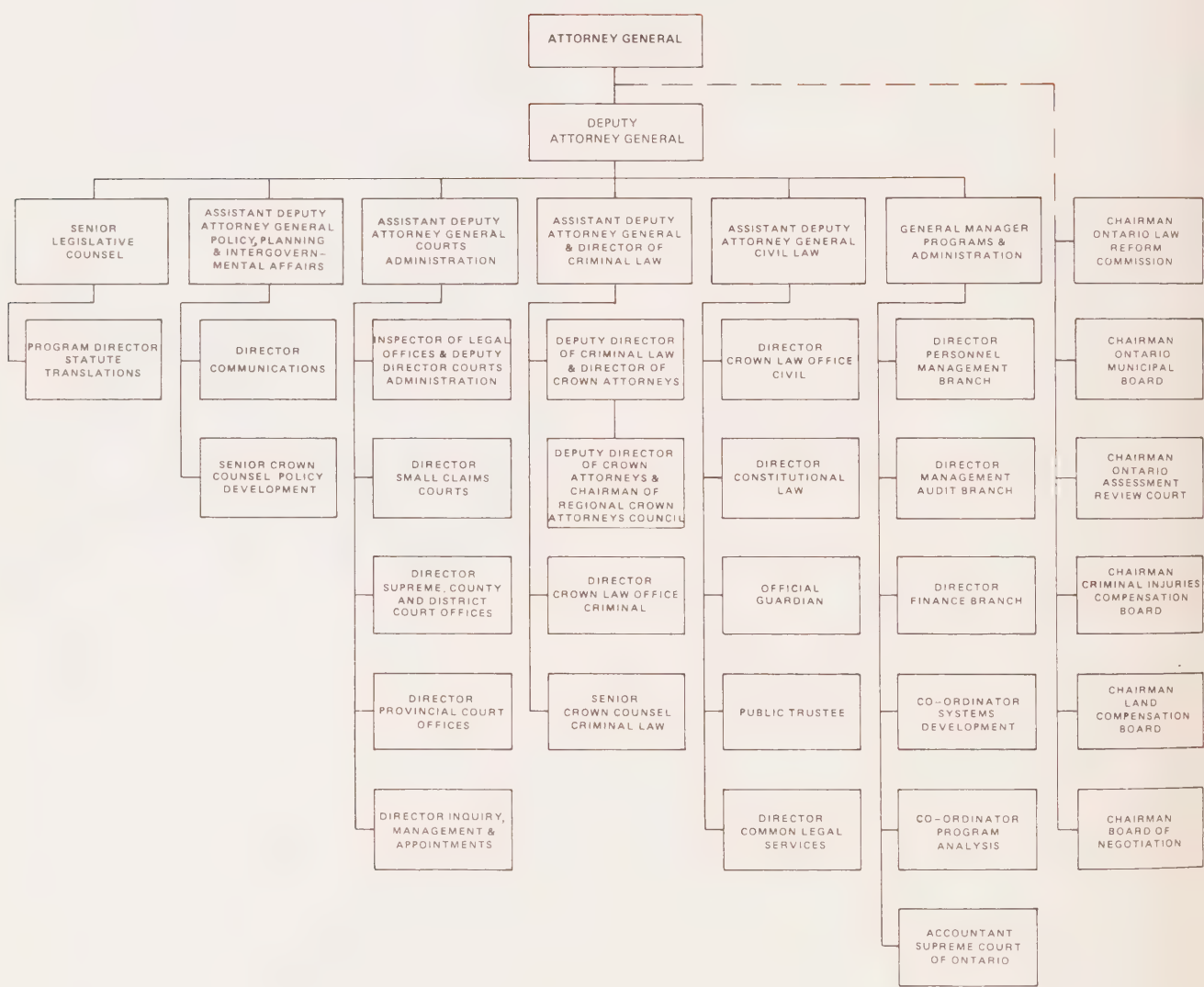


H. Allan Leal,
Deputy Attorney General.



The Ministry of the Attorney General

Senior Positions



OFFICE OF THE LEGISLATIVE COUNSEL

Arthur N. Stone, Q.C.,
Senior Legislative Counsel

The office provides a complete central legislative drafting service for the Government, members of the House and petitioners for private legislation.

The Legislative Counsel is part of the Ministry of the Attorney General in respect of Government matters but has an independent function as an officer of the Legislative Assembly in respect of the House procedures and work of private members. The latter function is the traditional office of law clerk of the House.

The office consists of eight lawyers, eight secretaries and clerks, four legislative editors and a French translation staff of four translators and three secretaries.

In particular, the duties and responsibilities of the office include:

1. Drafting all bills and regulations.
2. Advising and assisting the government, Cabinet ministers, members and committees of the Assembly on all legislative matters.
3. Preparing and overseeing the printing of the annual volume of statutes and office consolidations.
4. Maintaining public files of regulations and publishing the regulations.
5. Translating selected statutes into the French language and publishing the French translations for public convenience.

The statutes are maintained updated in a form capable of being printed at any time. This update is used for office consolidations and decennial revisions. The method of printing is undergoing a transition to the use of magnetic discs which will eventually result in a capacity to transfer the updated statutes on to magnetic tape for other uses.

In 1978 a program to translate statutes of particular public interest into French was initiated. To implement the program a French Translation Branch of the Office of the Legislative Counsel was created. The branch began building the necessary staff and facilities for this program. Translating commenced in

1978. The program consists of the translation and publication of about one-quarter of the Ontario statutes. The translations have the status of official translations published under the imprimatur of the Attorney General. Questions of interpretation are governed by the text in the form in which the Act was passed by the Legislature.

Number of Bills Drafted, Introduced and Passed

	1975	1976	1977	1978
Government bills —				
Drafted	191	151	206	158
Introduced	115	101	127	125
Passed	110	87	70	106
Private bills —				
Introduced	32	26	57	49
Passed	31	24	43	47
Private member's bills —				
Drafted	79	104	96	99
Introduced	83	95	80	89
Passed	0	0	1	0

Number of pages in statute book	1100	895	1010	1384
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Number of Regulations Drafted and Filed

	1975	1976	1977	1978
Drafted	1216	1230	1156	1227
Filed	1049	1021	975	1007
Published pages in Gazette	2457	1717	1797	1965

Program of Operations for the fiscal year 1979-1980

The office will continue its existing operation and make preliminary preparation for production of 1980 Revised Statutes for publication in 1981.

The Ministry of the Attorney General

POLICY DEVELOPMENT DIVISION

Archie Campbell, Q.C.,
Assistant Deputy Attorney General

The Division

At present the Division, which consists of an Assistant Deputy Attorney General and six lawyers, reports to and is directly supervised by the Deputy Attorney General.

Present Duties

The duties of the division include:

1. Studying and analyzing all aspects of the administration of justice in Ontario.
2. Continual review of the 136 statutes administered by the Ministry (see appendix), proposing reform and analyzing suggestions for reform from the Ontario Law Reform Commission, the public, lawyers, other ministries and Members of the Legislature.
3. Developing the legislative program of the Ministry, beginning with discussion of suggested legislation with senior staff members of the Ministry, preparing Ministry policy submissions outlining the problems and evaluating all government options for discussion and decision-making by the justice committee of Cabinet and by Cabinet. This process concludes with counsel from the division assisting Legislative Counsel to create draft bills reflecting Cabinet decisions.
4. Advising the Attorney General and Deputy Attorney General during the legislative progress of a bill. This generally involves attending the Legislative Assembly with the Attorney General to advise him about the bill, if necessary, and to help him answer detailed technical questions which may arise during debate.

The division is also responsible for the Ministry Library, which serves the Crown Law Office and (about 50) field offices.

Relationship with Other Organizational Units

To do its job, the division must have close relationships with a number of organizational units both within the Ministry and independent of it. There is constant liaison and co-operation with the Crown Law Office. Through these efforts some projects are conducted jointly and duplication is avoided. The Policy Development

Division maintains a co-operative relationship with the Ontario Law Reform Commission. While the independence of the Commission is at all time recognized and respected, there is an exchange of research material and ideas.

There is constant demand for interaction with other ministries and policy fields, with the federal Department of Justice, and with public interest groups. The division's involvement enables it to keep abreast of many activities and proposals which may affect the administration of justice in the province.

Examples of Activity

Legislation

1. *The Family Law Reform Act*, *The Succession Law Reform Act* and *The Children's Law Reform Act* all came into force as of March 31, 1978. Taken together, these statutes provide a comprehensive reform of family law in Ontario.

2. *The Provincial Offences Act* — This Bill completely redesigns the procedure under which provincial offences are prosecuted. The legislation, recognizing that over 90 per cent of the provincial offences brought before the courts are minor regulatory offences, places minor offences in a procedural stream which stresses clarity, convenience and efficiency.

Particular emphasis in designing this legislation was placed upon the creation and support of mechanisms to ensure that fines which are imposed for breaches of provincial legislation are paid. The basic thrust of the Act involves an attempt to prevent fines from being in default and to end the automatic issuance of a warrant of committal when they are. Generous provisions for extensions of time to pay are made, including provisions for periodic payments. However, when a fine goes into default, the legislation stresses reliance upon effective means of fine collection short of imprisonment. This Bill was reported to the Legislature on March 8, 1979, by the Standing Committee on the Administration of Justice, and has been enacted.

3. *The Residential Tenancies Act* — This Bill was introduced by the Ministry of Consumer and Commercial Relations, but much of the development and drafting was undertaken by The Policy Development Division. The Bill restates and reforms the law applicable to

residential tenancies. A new tribunal is established, called the Residential Tenancy Commission, that will discharge the duties now performed by county court judges in respect of residential tenancy matters in general; and as well, the duties of Rent Review Officers and the Residential Premises Rent Review Board in respect of rent review matters.

4. *The Religious Organizations' Land Act* — This Bill reforms and replaces *The Religious Institutions Act* which allows Christian and Jewish religious groups to hold land through trustees. The Act does not extend to the other religions which are present in Ontario today, and the Act has been criticized as being discriminatory toward those religions. The policy of the new Bill is that religious groups other than Christians and Jews should have the benefit of the land-holding privileges offered by *The Religious Institutions Act*. This Bill was introduced in the fall session and has now been enacted.

5. *The Change of Name Amendment Act* — This was a routine amendment to clarify the purpose of the Act that a minor may not apply for a change of name and to validate orders that had been made pursuant to a mistaken interpretation of the Act. In force as of May 26, 1978.

6. *The Judicature Amendment Act* — This amendment provides for the official designation of courts and of counties and districts in which French speaking residents may elect to testify in French and to have their evidence directly received and understood by the court without it being relayed through an interpreter. Such proceedings will generally be bilingual, but provision is made for unilingual French proceedings where circumstances warrant. In force as of May 26, 1978.

7. *The Juries Amendment Act* — The amendment provides for the selection in designated areas of bilingual jurors in cases being heard in the higher courts by a judge and jury. In force as of May 26, 1978.

Consultation on Federal Legislation

- Continued assistance to the interministerial task force which is responding to the federal legislative proposals regarding young offenders.

- Consultation with federal officials regarding amendments to the *Income Tax Act* to reflect Ontario's reform of family law.
- Participation in discussions with federal officials on the issue of "disentanglement", i.e. avoiding conflicts of federal and provincial jurisdiction.

Booklets and Films

1. *Small Claims Court Guide* — This Guide was published to assist members of the public in using the Small Claims Courts.
2. *Policy Options for Continuing Tenant Protection* — This booklet was published by the Ministry of Consumer and Commercial Relations, but a member of the Policy Development Division worked extensively on the contents. This paper was considered by the Standing Committee on General Government, whose recommendations formed the basis for *The Residential Tenancies Act*.
3. *Provincial Offences Procedure: An Analysis and Explanation of Legislative Proposals* — This booklet discusses the proposed *Provincial Offences Act* in detail.
4. *Family Law Film* — Members of the Policy Development Division were involved in the scripting and making of a film which explains leading features of *The Family Law Reform Act*.
5. *Family Law Reform Booklet* — This guide to family law reform was written with the assistance of members of the Policy Development Division.

Uniform Law Conference of Canada

The Conference consists of commissioners and other participants from all provinces, the territories and the federal Government who meet annually to consider reports and proposed statutes aimed at securing greater uniformity in the law of all jurisdictions in Canada.

The Division has increasingly taken on work generated by the Conference. At the 1978 meeting, the Ontario delegation presented a draft Uniform Powers of Attorney Act which, with some modifications, was adopted and recommended for enactment. At this year's meeting, the Ontario delegation will be continuing its presentation of a Uniform Support Obligations Act and legislation relating to the

The Ministry of the Attorney General

status of children born outside marriage, both of which were started at the 1978 meeting.

The Conference also adopted a provision dealing with the effect of a divorce on a will containing a gift to a former spouse which is very similar to a section in Ontario's Succession Law Reform Act, 1977.

Communications Branch

David Allen,
Director

The Communications Branch is responsible for the preparation, publication and distribution of booklets, pamphlets, films, news releases, statements, speeches and other material to explain Ministry proposals, programs and legislation. The Director advises the Attorney General, Deputy Attorney General and senior Ministry officials on communications matters.

The Branch was established in 1977 in response to increased public demand for information on the activities of the Ministry and the judicial system in general.

During the year, the Branch distributed approximately 1,000,000 copies of various Ministry publications.

Public interest in the Family Law Reform legislation, which took effect March 31, 1978, continued throughout the year. A total of 330,000 pamphlets and 140,000 booklets with a detailed explanation of the reforms in English were distributed. Distribution of French material included 35,000 pamphlets and 20,000 booklets. In addition, the Ministry's 30-minute film on the subject, available in English and French, was shown three times on the OECA network and was loaned to 125 high schools and community organizations for presentation to law classes and small groups.

After passage of legislation expanding the jurisdiction of the Small Claims Courts, the Branch distributed 165,000 pamphlets highlighting the availability of this court and its services. A total of 90,000 booklets, which explain step-by-step procedures in these courts, were also distributed.

The Branch was also responsible for the distribution of Discussion Papers on Provincial Offences Procedure and on Occupiers' Liability

and Trespass to Property. Major public information and education programs on these subjects are being planned.

COURTS ADMINISTRATION DIVISION

Brian W. McLoughlin,
Assistant Deputy Attorney General
and Director of Courts Administration

M. S. Fitzpatrick,
Inspector of Legal Offices and Deputy Director of
Courts Administration

Responsibilities

The Assistant Deputy Attorney General and Director of Courts Administration is responsible for the administration of the courts in Ontario including:

- regulating the appointments of commissioners for taking affidavits, notaries public and justices of the peace;
- provision of court reporting for all courts and supervision of court reporters and special examiners;
- ensuring the provision of adequate administrative services to all courts, including direction to sheriffs and court registrars, Criminal and Family Court administrators, Small Claims Court clerks and bailiffs;
- liaison with the Ministry of Government Services and the responsibility for court accommodation;
- French Language Services in the courts;
- maintaining liaison between the Ministry of the Attorney General and the judiciary, and the processing of judicial appointments to the Provincial Courts;
- overseeing the Ministry's interest in the Native Courtworker Program.

French Language Programs

Legislative Amendments

In May of 1978 the Legislature gave approval to Bill 71, an Act to amend the Judicature Act, and Bill 72, an Act to amend the Juries Act, 1974. This important new legislation enables the Ministry of the Attorney General to further expand its French language court services.

The amendment to the Judicature Act provides for the official designation of courts and of Counties and Districts in which French-speaking residents may elect to testify in French and to have their evidence directly received and understood by the court without it being relayed through an interpreter. It is anticipated that such proceedings will be bilingual, but provision has been made for unilingual French proceedings where circumstances warrant.

The amendment to the Juries Act enables the selection of bilingual jurors.

French Language Services in Provincial Court (Criminal Division)

French language services are now available in the Provincial Court (Criminal Division) in Sudbury, Espanola, Ottawa, L'Orignal, Hawkesbury, Rockland, Cochrane, Kapuskasing, Hearst, Smooth Rock Falls, and Hornepayne. Thus, French court services are now available to approximately 66 per cent of Ontario citizens who speak French only.

It is anticipated that further expansion will be undertaken in the Cornwall area in the near future.

French Language Services in Provincial Court (Family Division)

French language services are now available in the Provincial Court (Family Division) in Sudbury and in Ottawa. Planning is underway for further expansion.

French Language Services in Supreme, County & District Courts

With the recent amendments to the Judicature and Juries Acts, planning is underway for the provision of French language services in the Supreme, County and District Courts in specified, designated areas.

Human Resources

The Ministry is currently reviewing the human resources available for the appropriate and effective implementation of the French language programs in the courts and is taking steps to ensure that suitable resources are available.

Supreme, County and District, and Surrogate Court Offices

R. W. Schurman,
Director

Brian Pitkin,
Deputy Director

The director provides administrative direction for Supreme, County and District, and Surrogate Court Offices and Sheriffs' Offices. In liaison with the regional co-ordinators he develops and implements policies of the Ministry relating to procedures and training programs.

Again this year, the volume of litigation has grown, requiring the continued standardization of court procedures and training of staff. The regional co-ordinators have, therefore, undertaken during the last year to develop a number of manuals and training programs that will meet this end.

The development of a Courtroom Procedure Manual, the flow charting of actions within the Courts and a complete review and update of all Court forms were major projects undertaken in the last year. With the completion of these projects, the Court system will be better equipped to handle the increased volume of litigation.

In addition to continuing the educational seminars, begun in 1976, the regional co-ordinators were hard at work last year developing new training programs. This has resulted in a seminar on taxations to be given four times throughout the coming year for officials and Senior Deputies. New seminars were also developed for support staff in an effort to foster greater uniformity.

Courtroom security became a contentious matter during last year. As a result, a survey was carried out to determine the feasibility for providing greater safety for the judiciary, legal profession and public. Analysis of the data assembled during the last year will assist in the development of a policy during this coming year.

The Ministry of the Attorney General

Court Reporting

Tom Moran,
Manager

The Manager, Court Reporting Services, is responsible for the development, implementation and co-ordination of reporting services for the Supreme, County and District, Provincial and Small Claims Courts throughout the Province, including Special Examinations and certain Boards and Commissions.

The Manager is also responsible for the provision of competent reporting Service, the establishment of reporting standards, the development of reporter training programs and the provisions of direction and support to the offices of Special Examiners in Toronto, Ottawa, Hamilton, St. Catharines, Windsor and Timmins.

Use of archival recording systems has been expanded to include the Provincial Criminal and Family Courts in Kitchener, the County and Family Courts in Brampton and the Ottawa system will shortly be expanded to include the County Court, Ottawa.

Staffing constraints and increased caseload have created a great deal of pressure on the existing reporting staff and greater reliance has had to be placed on the availability of freelance reporters to keep the system operational. Additionally a trend towards longer trials appears to be developing (as witness the recently completed dredging trial) with a concurrent demand for daily transcript, which places an even greater burden on our limited reporting resources.

The training and development of competent reporters continues to receive priority and the three-week in-Court experience offered by this Ministry to reporting students from George Brown College has proven invaluable. In addition, Saturday morning classes conducted by the Chartered Shorthand Reporters Association for reporters wishing to upgrade their skills to C.S.R. standards, are very popular and invaluable. Again this year, a number of students have successfully completed the George Brown College course in court reporting and are actively seeking employment, either full-time or on a freelance basis, with this Ministry.

Provincial Court Offices

A. K. Mackay,
Director

D. H. Thornton,
Deputy Director

The administrative staff of the Provincial Court Offices provide clerical, stenographic and court reporting services to the court users, accounting and related services required by the Ministry. Staffing constraints continue to create pressure in every office and severe difficulties are being experienced in the large offices.

Family Law Reform Act

The new Family Law Reform Act was introduced at the beginning of this fiscal year. The administrative staff have responded well to the change in procedures. Many changes have been recognized and the functions have changed from a quasi-criminal court to those of a civil court. Much more document handling is being experienced than under the old legislation. As the experience level increased, new duties — such as conciliation and pre-trial meetings — were being performed by some members of the administrative staff under the direction of their Judges.

There is no doubt that the Family Law Reform Act will have a far-reaching effect on the Family Courts and over the next few years many changes will be necessary to provide maximum service to the users of this court.

Provincial Offences Act

The Provincial Offences Act received third reading in late March, 1979. This new, innovative legislation will change the systems and procedures related to summary conviction matters dramatically. Mr. David Thornton, Deputy Director of Provincial Court Offices, will co-ordinate the task force responsible for the development of the procedures, systems and administrative staff training necessary to accommodate the new Act.

New Court Systems

The volume of cases being processed through the Criminal Division Courts continues to increase and the office staffs are hard pressed to

cope. During the year a pilot project using a mini-computer was implemented in the Oshawa Office.

Staff of the Information and Computer Systems Branch and members of the Oshawa staff combined to identify and design the program. The system provides a complete operational program as well as all data for the Ministry's Management Information System.

It is anticipated that the project will assist in ascertaining the volume level at which computers will be cost effective in Courts Administration as well as the operational feasibility of such systems.

T.R.W. Data Systems was awarded the contract and installed a Model 4531 Computer, Model 3601 Data-Stations, Model 2001 Sale Unit and Model 9280 Printer. The system consists of four main sub-systems:

- Financial Management and Reporting
- Docket/Caseload Management and Reporting
- Information Data Management and Reporting
- Control Table File Maintenance

The system was fully operational on December 15, 1978, being operated by the former office staff after retraining. No new or additional staff were required. There are approximately 70,000 cases disposed through this office and all dockets, accounts receivable notices, conviction notices and licence suspension reports are automatically prepared from the original entry data. Audit trials and controls were carefully programmed.

Although the cost/benefit report will not be completed until June of next year, this project is showing great benefits and could very well be the forerunner of future court systems throughout the province.

Mrs. Rae Robertson, Court Administrator, her staff and Mr. Leo Siu of the Information and Systems Branch worked long and hard to make this project a success. Their efforts are much appreciated.

Family Courts

A feasibility study into the use of a computer system in the Family Courts in York was commissioned late in the year. The results of this

study will not be received until early in the new year.

Training and Staff Development

The Provincial Court has completed its third year of participation in the Ministry's Management Development Program. This program has dealt with basic management skills, effective communications, organizational and managerial behaviour and in 1979-1980 will enter into the area of performance problems. This training is provided in co-operation with the Ministry's Personnel Management Branch and Sheridan College of Applied Arts and Technology. The program has been designed to insure continuity from one level or phase to another and to provide a continuing Managerial Development Program for our managers and their staff.

Court Administrators have completed their third year in this program, their Deputies/ Assistants and key supervising staff their second year, and in 1978-1979 employees were entered into the program on a "career development" basis. New supervisory staff enter the program and are accelerated to achieve a "training level" with their peers as quickly as possible. The following numbers of individuals participated during the current year:

Management Workshop (Phase I);	45
Interpersonal Communications for Managers (Phase II);	91
Management for Results (Phase III);	94
Total:	230 Employees

Special Information

(applicable to both Criminal and Family Courts)

Thirty-seven employees participated in courses offered by the Civil Service Commission in the areas of Management Development, Problem Solving and Decision Making, Communication Skills and Professional Skills. In addition, 27 staff members were furnished tuition assistance for courses in various Colleges and Universities.

The Ministry of the Attorney General

Civil Service Commission Courses attended by Court Personnel:

Management Workshop	4
Advanced Management Workshop	1
Managing conflict	1
Work Performance Problems	1
Managing Stress	2
Career/Life Planning	2
Communication Workshop	6
Support Staff Workshop	8
Assertiveness Training	6
Transactional Analysis in the Work Setting	4
Introduction to Records Management	1
Filing Systems	1

French Language Program

During the year the program was expanded and now all forms served upon the public in the bilingual areas, relating to court process in the Criminal Division, are printed in both official languages.

Small Claims Court Offices

Ron McFarland,
Director

Function

The Director of the Small Claims Courts provides administrative direction to the 127 court offices throughout the Province. The Director is responsible for the planning and preparation of reports on the needs, both Judicial and Administrative, of the courts and for filling staff vacancies. The Director advises court officials on procedures, the interpretation of amendments and the up-dating of the Manuals with regard to Administration, Forms, Records Retention, and other related matters.

Activity

As reported in the Annual Report for 1977-78, the monetary jurisdiction of the courts was raised to \$1,000 (excluding interest) throughout the Province. This major change increased the level of activity considerably. (Claims filed: 1977 —

126,572; 1978 — 152,732). The dramatic change has also been reflected in further processes by plaintiffs resulting in a substantial increase in distribution of funds (1977 — \$11,896,306 and 1978 — \$14,179,796).

During 1978, booklets and pamphlets describing the functions of and procedures in these courts were distributed throughout the Province. As a result, the court officials and their staff have been assisting the public in explaining procedures to be followed in all aspects of the court.

Contained in the amendments to the Small Claims Courts Act in 1977, was a provision to appoint a Referee for each court. In May 1978 a Referee was appointed in London who was given the authority to hold Resolution Hearings for all disputed matters filed. The use of a Small Claims Court Referee to screen cases has provided a much-needed forum in settling contentious matters where the sole problem is a question of collections. Difficult issues requiring judicial consideration are set down for trial. The Referee has been able to settle an estimated 40 per cent of all disputed matters. These duties and responsibilities have now commenced in Toronto and Hamilton, upon the appointment of Referees.

In the fall of 1978, the Attorney General requested that night courts be initiated in Metropolitan Toronto. The 1st, 8th and 9th Small Claims Courts commenced night sittings in January 1979, and have been an unqualified success. A unique feature in the 8th S.C.C. is the setting of a predetermined time to hear matters. Plaintiffs and defendants are advised to come at 20-minute intervals commencing at 6:20 p.m.

New Initiatives

In an article, Judge Marvin A. Zuker, Small Claims Court Judge in York, described Small Claims Court as not a building or a courtroom, but a special procedure. During the coming year it is the intention of the Attorney General to bring about a "Restructuring of Small Claims Courts" to provide a simple and more accessible forum which will allow disputants to resolve controversial matters at a minimal cost.

With the new emphasis being placed on the courts, structural seminars will be held throughout the Province to assist and clarify new responsibilities of court officials.

Courts and Office Accommodation Planning

W. M. Thomson,
Administrator.

This branch provides general administration of all Court and office accommodation throughout the Province, as well as the liaison with the Ministry of Government Services in all alterations, new leases and capital projects required by the Courts.

Projects Completed

Construction work was completed at the County Court House in Windsor which provided two additional Courtrooms and support facilities for the County and District Court. Central air conditioning was installed in the County Court House in Haileybury and a covered link between the Provincial Court (Family Division) and the adjoining Detention Centre on Bronson Avenue in Ottawa, were completed. In Parry Sound, additional washroom facilities were added.

A total of 17 lease projects were completed. These included nine leases to provide additional space; 700 Bay Street, Toronto, where a Library/Boardroom was provided for the Chief Judge, Provincial Court (Family Division); 180 Dundas Street, West, Toronto, where additional space was provided for Royal Commission purposes; 56 Sparks Street, Ottawa, two additional Courtrooms which are shared by the Provincial Court (Criminal Division) and the Small Claims Court; Sarnia, accommodation was provided for the Kim Ann Popen Royal Commission support services; in Napanee, additional space was provided in order to consolidate the Provincial Court (Criminal Division) and Provincial Court (Family Division) offices in one location; the Provincial Court (Criminal Division) was provided with one Traffic Courtroom and support facilities in Richmond Hill; in Belleville the Provincial Court (Family Division) was relocated to new and expanded quarters on Front Street; the Geraldton Provincial Court (Family Division) was relocated from a Church Hall to more appropriate facilities in the Town Hall; The Crown Attorneys offices in Windsor were relocated to 251 Goyeau Street in order to provide required expansion for the County Law Association Library.

Four additional leases were required for facilities where the space was required by either the landlord or another court facility. These include the Peel County 2nd Small Claims Court relocation from interim space, the Legion Hall to 470 Hensall Circle; Exeter 5th Small Claims Court from the Legion Hall basement to the Town Council Chambers; in Bradford, the Provincial Court (Criminal Division) was relocated from interim space to permanent facilities provided by the Municipality and in Durham, at the request of the Town who required the space, the 2nd Small Claims Court was relocated to the Community Centre.

Paid per diem leases were adjusted to reflect additional sittings. Renfrew sittings increased from 50 to 107 p.a.; Wawa increased from 30 to 69 sittings p.a. in the Provincial Court (Criminal Division); in Midland, the Provincial Court (Criminal Division) sittings increased from 72 to 100 p.a. and the Provincial Court (Criminal Division) in Ingersoll increased sittings from 24 to 52 p.a.

In the Alterations Program, 13 projects were completed. They included relocation of the Peel Crown Attorney and Small Claims Court in Brampton; the installation of folding partitions in the Hearing Rooms at 180 Dundas Street, West, to enable the rooms to be sub-divided; Judges' Lounge and offices at 361 University Avenue Court House; holding cells in the Hamilton Provincial Court (Criminal Division); electrical renovations to Courtrooms in Hamilton County Court; re-organization and renovations to the 18th Floor, 18 King Street, East; four additional Judge's offices at Osgoode Hall for the Supreme Court of Ontario; in Whitby, completion of a Courtroom on the third floor and new holding facilities on the lower level; a new stenographers room and a sound system were installed for the Public Trustee at 145 Queen Street, West; a sound re-inforcement system was installed in the Courtroom, Victoria Hall, Cobourg; an additional Judges washroom was provided for the Provincial Court (Criminal Division) in Brampton; the Provincial Court (Criminal Division) at 2265 Keele Street were renovated to accommodate Traffic Courts and Drivers' Training classroom and, at Old City Hall, one additional Courtroom was installed, new file storage was provided on the fourth floor, improvements to paintings and lighting were completed.

The Ministry of the Attorney General



With the opening of Toronto's College Park court complex in September, the Judicial District of York will have 10 new courtrooms, such as the one shown above, for the Provincial Court (Criminal Division) and the Small Claims Court. The complex is located on the second floor of the former Eaton's store (below) at the corner of College and Yonge Streets.





A New Court House in Newmarket is scheduled for completion early in 1980. The 22-courtroom facility will accommodate County Court, Provincial Courts (Family and Criminal Divisions) and the Small Claims Court.



The Ministry of the Attorney General

Under Construction

In Newmarket a 22-Courtroom Court House to accommodate County Court, Provincial Courts (Family and Criminal Divisions) and Small Claims Court is scheduled for completion in 1980. Additional canopies and identification signs are scheduled for completion in May, 1979.

A total of 10 Provincial Court Courtrooms will be completed at College Park in September, 1979. Other projects under construction and scheduled for completion during the 1979/80 fiscal year are: Pembroke, Courtrooms and support facilities for the Provincial Courts (Family and Criminal Divisions); Oshawa, a relocation of the Provincial Court (Family Division) to 44 Bond Street; Guelph, new facilities for Provincial Courts (Family and Criminal Division); Burlington, facilities for the Provincial Courts (Family and Criminal Divisions) as well as Small Claims Court; Kitchener, relocation of the Sheriff's accommodation and enlargement of the Registrar's office; 361 University Avenue Court House, relocating to courtroom clerks and attendants to provide space for Judges offices; Old City Hall, one additional Judge's office and cashier's office; and Public Trustee, 145 Queen Street, West, provision of new Computer room and related facilities.

In Design

The following projects are in an advanced stage of planning. Thunder Bay County Court House, a Central Air Conditioning system will be installed; a 22-Courtroom Court House to accommodate County, Provincial and Small Claims Court is being designed for St. Catharines; the Provincial Court (Family Division) and the Small Claims Court in Sudbury will be relocated; in Oakville, the Provincial Courts (Family and Criminal Divisions) will be expanded in consolidated facilities at the present location; additional Courtroom space is being designed for the Etobicoke Provincial Court (Family Division); expansion Courtroom space will be provided in relocated facilities in North Bay for the Provincial Court (Criminal Division), which will share these facilities with the County Court; in Welland, the Provincial Court (Family Division) will be relocated in more adequate Courtroom and support facility space; the Timmins County Court facilities will be relocated and share these

expanded facilities with the Small Claims Court; the Sault Ste. Marie Provincial Court (Family Division) will be relocated, thereby providing necessary expansion space for the Provincial Court (Criminal Division) in the vacated space; at the request of the Metro Police Force the 9th Small Claims Court in Scarborough will be relocated from the Police Building at 2222 Eglinton Avenue, East; in Thessalon, at the request of the Town, the Provincial Court (Criminal Division) will be relocated to the Community Hall.

Design drawings are also underway to renovate the County Court House, University Avenue, Toronto, to provide additional offices for Judges, Jurors' Lounge and support staff areas for the Sheriff's department; to provide an additional courtroom for the County Court in Guelph in the area vacated by the Provincial Court (Family Division). Additional Courtrooms will also be provided for the County Courts in Sudbury, Milton and Stratford in space vacated by the Small Claims Court, the Ministry of Consumer and Commercial Relations and the Ministry of Correctional Services, respectively; in Old City Hall acoustics will be improved in three Courtrooms; the Provincial Court (Criminal Division) in Belleville will expand into space recently vacated by the Family Division, and in Peterborough new Jury Room facilities will be provided in the space to be vacated by the Provincial Court (Family Division). A reorganization of the County Court facilities in Brampton to utilize the area vacated by the Crown Attorney and the Provincial Court (Family Division) will provide additional Courtroom space as well as expansion area for the Registrar.

In Planning/Lease Search/Negotiation

Lease searches are presently underway for the following Courts; relocation and expansion of the Kingston Provincial Court (Criminal Division); a relocation and expansion of the Oshawa Provincial Court (Criminal Division); Ottawa Provincial Court (Criminal Division) expansion; a relocation and expansion of the Peterborough Provincial Courts (Family and Criminal Divisions); a relocation of the Cambridge Provincial Courts (Family and Criminal Divisions); Whitby, a relocation of the Provincial Court (Criminal Division); additional space for the

Hamilton County Court in the present facility; relocation of the Richmond Hill and 67 Richmond Small Claims Courts.

Initial planning has also begun on Courthouse projects in Scarborough, Etobicoke, North York, Ottawa, Toronto, Lindsay, Brockville, North Bay, Sudbury and Guelph.

Inquiry Management and Appointments Branch

P. W. Clendinneng,
Director

The Inquiry Management and Appointments Branch was established in early 1978, and has two primary responsibilities. One is the co-ordination and direction of the logistical support of Royal Commissions, Judicial Inquiries and Task Forces funded through the Ministry of the Attorney General. The second is the appointment and administration of the Justice of the Peace, Notary Public, and Commissioner for taking Affidavit programs. The Inquiry Management and Appointments Branch administers the Public Institutions Inspections Act and the Blind Persons' Rights Act, on behalf of the Ministry of the Attorney General. In addition, this Branch also co-ordinates the drafting and processing of the Ministry's Recommendations-to-Council and regulations.

During the past year, a number of modifications were introduced, including the introduction of: word processing, revised documentation, and a brochure containing guidelines for panelists under the Public Institutions Inspection Act. The word processing equipment represents a significant development to reduce the cost of producing Royal Commission Reports, and the brochure for Public Institution Inspection Panels has proven successful in increasing both the effectiveness of, and the acceptance of, such panels.

In the coming year, the development of improved financial administrative program management for Royal Commissions will continue to be a primary objective, together with a continued review of the policies and procedures governing appointments.

Provincial Courts (Criminal Division)

Chief Judge F. C. Hayes
Associate Chief Judge H. A. Rice

Court Sitings

The Provincial Courts (Criminal Division) during the past fiscal year had sittings on a regular basis at 140 locations throughout the Province of Ontario with multiple courtroom establishments at approximately 25 locations. There was an increase in activity in the Provincial Courts (Criminal Division) during this fiscal year, as well as a continuing change in the nature of the caseload, such as a greater number of substantial prosecutions arising from complex commercial transactions, more charges where a number of individuals are jointly charged with criminal and/or narcotic offences and an increasing number of prosecutions under miscellaneous federal and provincial statutes. In addition, there have been a substantial number of legislative amendments such as those relating to firearms control which will create a demand for further court time before a Provincial Judge.

There have been continuing efforts throughout the Province to maximize the use of available judicial personnel and available facilities. In this regard there have been a number of changes in court scheduling procedures and, in addition, substantial emphasis is being placed on an early review of the nature of the case by both Crown and Defence Counsel. The various procedures in this regard are aimed at narrowing the issues before the court so as to more accurately estimate the amount of court time required for the trial or preliminary hearing.

The Chief Judge's office is continuing with its efforts to obtain a degree of uniformity in the time between the laying of the Information and the return date for the accused to appear.

The statistical analysis representing the caseload is only a partial assessment of the problem. Over the past few years, there has been a very discernible change in the nature of the caseload in that there are many lengthy criminal prosecutions, be they trials or preliminary hearing, and this has been reflected in the special assignment of Judges to various areas of the Province to deal with matters which could not be accommodated in the ordinary court list.

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In Metropolitan Toronto, the number of courtroom days allocated to special criminal prosecutions (i.e., cases occupying one day or more) increased from 772 in 1977-78 to 815 in 1978-79. Special matters being prosecuted by representatives of the Federal Department of Justice accounted for 172 courtroom days and special matters being prosecuted by Provincial Assistant Crown Attorneys accounted for 495 courtroom days in 1978-79. The movement of Judges from Metropolitan Toronto to other areas

for special relief accounted for 245 days in 1978-79.

The demand continued for the court to attend in remote communities in Northwestern and Northeastern Ontario, and this demand was met in most instances by scheduling special sittings. An increase, over the past few years, in the level of law enforcement has led to a greater number of charges and we have been unable to respond to all the demands for additional sittings in various areas of Northwestern Ontario.

Judicial Appointments

	1974	1975	As of Mar. 31 1976	As of Mar. 31 1977	As of Mar. 31 1978	As of Mar. 31 1979
Provincial Judges in Ontario						
Number of Full-time Judges, including Chief Judge, as of December 31	118	117	117	128	129	137
Number of Judges Retired or Deceased or on L.T.I.P.	5	6	6	5	8	5
Number of Judges Appointed	15	5	7	15	8	12
Number of Part-time Judges	2	2	2	2	2	1
Number of Judges on Extension	5	6	6	4	6	5

As of March, 1979, eleven (11) of the above Judges were also presiding in the Family Division.

	1974	1975	As of Mar. 31 1976	As of Mar. 31 1977	As of Mar. 31 1978	As of Mar. 31 1979
Provincial Judges in Metropolitan Toronto						
Number of Full-time Judges, including Chief Judge, as of December 31	28	29	28	36	34	40
Number of Judges Retired, Deceased or Resigned	0	0	1	0	2	1
Number of Judges Appointed	5	1	1	8	0	7
Number of Judges on Extension	2	1	2	1	2	2

The above shows only Metropolitan Toronto. To calculate figures for the Judicial District of York, it will be necessary to add one full-time Judge — Judge R. G. Pearse in each instance, and to show one resignation — Judge C. W. Morrison in 1975.

Traffic Court Sittings

In an effort to continue to improve the scheduling for the trial of traffic cases, the sittings of the court have been revised in certain areas so as to provide sittings at 9:00 a.m., 10:30 a.m., 1:30 p.m. and 3:00 p.m. This results in a more intensive use of the physical facilities and in the citizen who is charged and all necessary witnesses only being required to attend at the court premises for not more than 1½ hours.

This particular method of scheduling sittings of a Traffic Court is particularly suited to areas having a higher volume of charges, and in the past fiscal year was extended to include Hamilton, Ottawa and Richmond Hill. This four-tier system of sittings of the Traffic Court had already been implemented in all of Metropolitan Toronto and in Brantford, Kitchener and St. Catharines.

Court Visitations

The Chief Judge continued with his visits to a number of areas of the Province where he met with the Area Senior Judges and with the Provincial Judges. The Area Senior Judges also held their regional meetings, and the Chief Judge attended these meetings wherever possible.

In all meetings there has been a continuing study of the local criminal and provincial statutory offence caseload and various alterations have been made to case-scheduling methods in order to achieve an earlier disposition date and a more efficient use of judicial personnel, administrative personnel and physical facilities.

Judicial Education

The office of the Chief Judge continued to review judgments of the Court of Appeal and law reports and to circulate matters of interest to the Judges. The Law Clerk assigned to the staff of this office continued to prepare appropriate annotations for recently reported judgments and to carry out

research in areas of criminal law relevant to the Provincial Courts (Criminal Division), including rendering assistance to Judges in their preparation of judgments.

The Judges Education Program was held at the University of Western Ontario again this year. This program permits a Judge, once every three years, to live for one week in a university setting and to participate in a program consisting of lectures, discussions, and videotapes.

The Provincial Judges Association (Criminal Division) continued with its education program composed of regional education and sentencing seminars.

During the period April to July, a series of meetings of a consultative nature was held with Judges across the Province in regard to the introduction of the Provincial Offences Act, 1978, and the companion Provincial Courts Amendment Act, 1978, which received Royal Assent on March 29, 1979.

Justices of the Peace Education Program

During the months of May and June, regional meetings with respect to the Provincial Offences Act, 1978, and the companion Provincial Courts Amendment Act, 1978, were held with the "A" Direction Justices of the Peace in seven locations in order to explain the legislation to them and to consult with them as to their views of the legislation. They were also provided with an explanatory booklet regarding the above-mentioned legislation.

Later in the year, Judges across the Province were requested to consult with the "B", "C", and "D" Direction Justices of the Peace in order that each of them would have an opportunity to have the legislation explained and to express any views that may be held concerning the new legislation.

The Ministry of the Attorney General

Statistics

The statistical reports indicate the following increases within the system:

	1977-78	1978-79	Percentage Increase
New Charges — All Statutes			
Metropolitan Toronto	2,001,602	2,124,788	6.15
Remainder of Province	1,713,882	1,795,462	4.17
Total	3,715,484	3,920,250	5.51
Dispositions — All Statutes			
Metropolitan Toronto	1,727,540	1,882,406	8.96
Remainder of Province	1,729,470	1,814,264	4.9
Total	3,457,010	3,696,670	6.93
Dispositions — C.C.C.			
Metropolitan Toronto	99,119	100,404	3.87
Remainder of Province	199,573	218,359	9.41
Total	298,692	318,763	6.71
Dispositions — Minor Traffic			
Metropolitan Toronto	1,535,092	1,689,533	10.06

General

The Chief Judge's Office researched and prepared reports and conducted special projects as follows:

1. Survey on Extra-judicial duties.
2. Authorization of selected Justices of the Peace across the Province to perform marriage ceremonies, as a result of the proclamation effective August 1, 1978, of Bill 62 — The Marriage Act, 1977.
3. Implementation of a uniform policy to eliminate any delay in bringing matters before the Court.
4. Survey to develop appropriate goals re court hours.

Substantial emphasis is and will continue to be placed on encouraging pretrial disclosure in criminal matters. It is hoped by this pretrial disclosure process, which is initially being operated in Ottawa, that the time spent with trials and/or preliminary hearings will be reduced.

It is considered desirable to have a Provincial Judge or a limited group of Provincial Judges

assigned to a particular section of the caseload on a continuing basis until that portion of the caseload has been finalized. This approach was followed in a three-month pilot project initiated at the Old City Hall in Metropolitan Toronto beginning in April of 1978 and presided over by Associate Chief Judge H. A. Rice. In addition to there being one judicial officer assigned to a group of cases, there was one Assistant Crown Attorney assigned to the project. As a result of the information obtained from this pilot project the same type of caseloading and judicial assignment will be implemented in six courtrooms in the premises to be occupied at College Park.

Also, certain groups of Provincial Judges have been assigned on a continuing basis to the Provincial Courts (Criminal Division) at the Metro West, Metro East and Metro North locations. In those areas where there has been sufficient staff available in relation to the caseload, the disposition time has been substantially improved and for the majority of cases in those locations we are approaching a disposition period of 90 days.

**Provincial Courts
(Family Division)**

Chief Judge H. T. G. Andrews
Associate Chief Judge Robert Walmsley

Jurisdiction

The jurisdiction of the Provincial Courts (Family Division) falls into four categories:

- 1. Prosecutions in respect of the criminal conduct of infant offenders and criminal conduct against infant victims (i.e., juvenile delinquency and contributing to delinquency).
- 2. Proceedings in respect of child protection and neglect.
- 3. Inter-spousal rights and obligations (i.e., support, freedom from molestation, possession of the matrimonial home).
- 4. Parent-child rights and obligations (i.e., support, custody, access, freedom from molestation).

By virtue of The Provincial Courts Act the court interprets and applies the law contained in the following statutes, administered by the department of government noted:

Criminal Code of Canada — Federal Department of Justice:

In respect of intra-familial crimes (e.g., assaults, threatening, incest), Provincial Judges who ordinarily preside over the Provincial Courts (Family Division) hear these matters, but as they are conducted under the Criminal Code of Canada, the Judge must reconstitute the Court as a Provincial Court (Criminal Division).

Juvenile Delinquents Act of Canada —	Federal Department of Justice
The Family Law Reform Act —	Ontario Ministry of the Attorney General
The Reciprocal Enforcement of Maintenance Orders Act —	
The Minors' Protection Act —	
The Child Welfare Act —	Ontario Ministry of Community and Social Services
The Training Schools Act —	
The Education Act —	Ontario Ministry of Education

Judicial Complement as at March 31, 1979

Full-Time Family Division	50
Per Diem / Part-Time Family Division	7
On Leave	2
Serving Criminal and Family Divisions	11
Serving Unified Family Court	3
Total Complement	73

Training and Development

Judicial

1. Programs for the Judiciary were held in:

Ottawa-Montreal	July 17-21, 1978
Toronto	September 28-30, 1978
*Toronto	November 19-24, 1978
*Toronto	November 26-Dec. 1, 1978

(*Conducted by the Office of the Chief Judge)

2. The Canadian Association of Provincial Court Judges sponsored a program in Vancouver, November 5-11, for newly-appointed Judges.

Ontario Judges attending:

Chief Judge H. T. G. Andrews
(Instructor at Program)
Associate Chief Judge R. J. K. Walmsley
Judge R. H. Donald
Judge J. M. Gammell

Others

The Chief Judge's Law Clerk and Executive Assistant prepared and conducted training programs on the Family Law Reform Act for members of the Provincial Benefits Branch of the Ministry of Community and Social Services and staff of the Department of Social Services, Metropolitan Toronto, at 14 sessions in six cities. More than 800 persons were trained at these programs.

Summer Students

Twenty-six Courts participated in the 'Experience 78' Summer Student Program of the Youth Secretariat. 3,453 applications were received by the Office of the Chief Judge for the 68 positions available. Fifty students were from Faculties of Law, 18 from other disciplines.

The Ministry of the Attorney General

Independent of the Experience '78 Program, six students conducted research for the Office of the Chief Judge on the following subjects: joint custody; defences to truancy; constitutionality of Provincial support and custody laws in the face of the Federal Divorce Act; extra-Provincial enforcement of custody orders; no-fault custody; The effectiveness of maintenance orders over a five-year period.

Training Manuals

Manuals were written and produced by the staff of the Office of the Chief Judge for Judicial Training Programs in Toronto and Vancouver.

A Training Manual was written by the staff of the Chief Judge's Office for Family Law Reform Act programs. Two thousand copies were produced by the Ministry of Community and Social Services for their field personnel.

Court Services

No. of Family Court Offices (Plus the Unified Family Court)	54
No. of Locations in Which Courts Are Held	112
Court Staff Appointed Justices of the Peace During the Year	6
Justices of the Peace Authorized to Perform Marriage Ceremonies During the Year	21
New Accommodation was Provided for Courts In:	
Belleville (County of Hastings)	
Napanee (Counties of Lennox and Addington)	

CROWN LAW OFFICE

R. M. McLeod,
Assistant Deputy Attorney General and Director of Criminal Law

Crown Law Office — Criminal
Howard F. Morton,
Director

Harry G. Black,
Deputy Director

Composition

The Branch is composed of 22 lawyers, all of whom are specialists in criminal law. While the total caseload has again increased substantially the number of criminal lawyers in the Branch has not been increased. This has resulted in a sharp increase in the individual workload borne by counsel.

1. Criminal Appeals

Criminal appeals to the Supreme Court of Ontario, Court of Appeal and Supreme Court of Canada constitute the Branch's major responsibility and encompasses a large portion of our workload due to their increased complexity and the increased frequency of court sittings.

2. Special Prosecutions

In the past year, the Branch has continued to prosecute an increasing number of offences which have been referred to as organized crime prosecutions. As a result of a Tri Force approach to police investigation in this area, charges have been laid against approximately 250 persons involved in organized criminal activities in the past two years. Among the charges are several involving complex conspiracies. Others involve loansharking, extortion, counterfeiting, gambling, burglary, theft, forgery, fraud and other criminal intensive investigation into patterns of criminal activity that are planned and organized by persons acting in concert. Counsel in the Crown Law Office are consulted by and advise members of the Task Force at regular intervals in the course of every major investigation. Virtually all of the prosecutions arising out of the Tri Force Unit are handled by counsel from the Crown Law Office — Criminal. Counsel in the Crown Law Office have

participated in intensive courses dealing with the prosecution of organized crime at Cornell University.

In addition, the Branch has continued to prosecute an ever-increasing number of complicated commercial transactions involving allegations of fraud, corruption and conspiracy. These prosecutions are complex and take a large amount of preparation and trial time. Liaison with the Fraud Squad of the Metropolitan Toronto Police, the Ontario Provincial Police and the R.C.M.P. is an important feature of the Branch's activities in order to provide the specialized prosecutorial assistance needed not only at a trial level, but also from the outset of the investigation in most cases. The Ontario Securities Commission is referring an increasing number of complex investigations involving stock market frauds and manipulations. Consumers protection legislation has also added to the burden of this Branch with special prosecutions under these statutes.

3. Other Court Appearances

Court appearances by lawyers in the Branch also encompass diverse matters involving various provisions of the Criminal Code of Canada and the Provincial Statutes of Ontario.

Appearances on judicial interim release hearings in murder cases, pre-trial judicial interim release review hearings, release pending appeal applications, contested motions and summary conviction appeals in Weekly Court and Chambers necessitate daily attendance in the Supreme Court of Ontario. Weekly Court and Chamber matters also include mandamus, prohibition, certiorari and habeas corpus applications and Juvenile Delinquent appeals requiring further appearances by counsel. Counsel appear on applications for leave to appeal and appeals in the Supreme Court of Canada which are heard every two weeks. When such applications are granted, there are more lengthy and subsequent appearances which are required for the hearing of the appeal. The increased incidence of applications for judicial interim release and bail reviews, in spite of procedural adjustments to standardize court dates for the latter, necessitates daily appearances of at least two lawyers to ensure that the Crown's case is properly advanced and

dangerous offenders are not at liberty prior to their trials.

4. Advisory Responsibilities

One of the functions of the Branch is to create, within its personnel, a level of expertise in selected specialized areas of criminal law and procedure so as to be able to provide advice to others involved in the administration of justice in the Province, who require legal opinions, often on an emergency, or, at least, short notice basis. To this end, the lawyers in the Branch are constantly encouraged to involve themselves in private research and a variety of academic pursuits including the writing of text books and articles for publication and participating in continuing legal education programs and seminars. Several lawyers in the Branch participate as instructors in The Law Society Continuing Education Programmes, in the Bar Admission Course, Criminal Law Section, and the Canadian Bar Association Continuing Legal Education Programmes.

This advisory function also extends to the delivering of lectures and conducting of seminars at many Ministry-sponsored courses for Provincial Judges, Crown Attorneys and Justices of the Peace and at similar courses conducted by various police and regulatory agencies.

5. Committee Work

In the past year, the participation of members of the Crown Law Office — Criminal on various interministerial Committees has increased. Members of our office have participated on Committees dealing with, inter alia, drinking/driving, seatbelt usage, highway safety, traffic tribunals, the drinking age, foreign investment, hypnosis, hypnotherapy and psychiatry. In addition, the Crown Law Office is providing intensive legal counsel to The Study of Sects, Cults and Other Groups in Ontario chaired by Dr. D. G. Hill. Counsel in the Crown Law Office also staffs the Criminal Justice Advice Service for the Victims of Racially Motivated Criminal Offences.

6. Justice Policy

In the past year, the Crown Law Office expanded its involvement in the formulation of justice policy matters in the area of criminal law. The most

The Ministry of the Attorney General

prominent areas of our involvement are as follows:

(i) Drinking-Driving:

A mandate to design, legislate and implement a 24-hour licence suspension system in conjunction with a check stop operation which will be based upon the use of roadside screening device.

This endeavour is the most recent undertaking by the Crown Law Office in its continuing attempt to reduce the magnitude of the problem of drinking-driving in the Province of Ontario.

(ii) New Provincial Offences Act:

Counsel in the Crown Law Office have been responsible for the design and drafting of the Provincial Offences Act and the Provincial Courts Amendment Act, including all steps preparatory to introduction of the legislation, consultation on systems design, and interministerial consultation and co-ordination. This undertaking included the preparation of a detailed analysis and explanation of the above legislation for distribution to M.P.P.'s and the public at large, together with planning and delivery of seminars for Judges, Justices of the Peace, the police, Crowns, etc.

(iii) Outstanding Fines:

This undertaking included the preparation of fines, together with work on the Interministerial Committee on the Vehicle Registration System.

(iv) Diversion:

In the past year, counsel continued to spend considerable time in examining this concept in preparation of a Ministerial policy.

(v) Community Service Orders:

In May, 1977, the Honourable R. Roy McMurtry, Q.C., Attorney General for the Province of Ontario, announced his decision to implement a program under which persons convicted of non-violent Criminal Code offences might be ordered by a Court to perform community service under supervision and thereby help repay their debt to society.

A Community Service Order is a non-custodial sentencing disposition whereby an offender serves his sentence by performing a prescribed number of hours of community service. Examples of community service could include: maintenance work for senior citizens and the

handicapped such as lawn cutting or snow shovelling and assisting in athletic or recreational programs. Community service orders could also include activities such as pollution cleanup of parks and other public property which would otherwise have to be performed by volunteers or simply go undone. The type of work to be carried out under the Community Service Order program will not eliminate any existing jobs or employment opportunities for persons in the community.

The purpose of the Community Service Order Program is to provide judges with another alternative to sentencing low-risk offenders to jail or prison terms and to provide the necessary supervisory and community resources to better enable the Court to exercise this option. A recent decision of the Ontario Court of Appeal has clarified the legality of such a disposition and in fact urged the Courts to make greater use of Community Service Orders as a sentence and rehabilitative alternative in appropriate cases. It is hoped that the program will prove particularly useful in dealing with the increasing problems of vandalism and wilful damage to both public and private property.

The Crown Law Office was given the task of working with Officials from the Ministry of Correctional Services to implement pilot projects in several areas of the Province.

On October 13, 1977, the Attorney General of Ontario, the Honourable R. Roy McMurtry, Q.C., and the Minister of Correctional Services, the Honourable Frank Drea, announced the designation of six pilot projects to administer the Community Service Order Program. The following areas and groups were selected for pilot projects: Thunder Bay, Scarborough, Windsor, Belleville, Oshawa/Ajax and Peterborough.

All indications would suggest that the program is working well and has been well received by members of the judiciary, lawyers and the public at large.

The Crown Law Office will continue with its involvement in the program in the upcoming year.

(vi) Public Defender Study:

Counsel in the Crown Law Office are conducting an ongoing study and investigation of the public

defender system, including on-site investigations, analysis of the literature, meetings with the Advocates' Society and the Law Society of Upper Canada.

(vii) Human Rights and Race Relations:

Counsel in the Crown Law Office are engaged in work in this field on an ongoing basis. This involves:

(a) attendance at all meetings of the Ontario Human Rights Commission (two days per month);

(b) liaison with the Ontario Human Rights Commission on all matters of mutual concern;

(c) handling hate literature complaints;

(d) attending meetings of the Urban Alliance on Race Relations, which operates three pilot projects on which police officers and community members work together on a committee which deals with race relations matters;

(e) work on a subcommittee of the U.A.R.R. which is preparing a booklet explaining police powers and duties in racial confrontations;

(f) design of a racial attack response system, which will be operated out of this Ministry to assist complaints in laying and prosecuting charges;

(g) co-ordination and preparation of the government's response to the Udale Report.

(viii) Traffic Tribunals:

The Crown Law Office was responsible for the introduction of the traffic tribunal concept to the Borough of North York in 1974 and has maintained its supervisory role on a continuing basis, including the expansion of the concept to three other Metro Toronto Boroughs in 1977. In light of the success of the tribunal concept, and the recommendation of the Select Committee on Highway Safety that the concept be further expanded, counsel in the Crown Law Office will continue to supervise its operation.

(ix) Response to Royal Commissions, etc.:

The Crown Law Office continues to draft Ministry policy, in response to various Royal Commissions. In past years, we have reviewed and responded to both the Shapiro Report of the Royal Commission on the Toronto Jail and Custodial Services and the Ombudsman's Report on Adult Correctional Institutions.

Currently we are working on issues raised by the Krever Royal Commission and the McDonald Inquiry concerning Certain Activities of the Royal Canadian Mounted Police.

(x) Bilingual Legal Services:

The Crown Law Office has prepared a study of the bilingual trial system in Montreal.

7. Law Reform

In the past four or five years, there have been a considerable volume of working papers and proposals dealing with reform of criminal law in Canada. These proposals require a response from our Ministry, both in writing and by attending several workshops throughout the year. This response, which has been shared by the Crown Law Office — Criminal and the Crown Attorneys' system, requires that considerable time be spent in studying the proposals, preparing position papers, and recommending several changes to the Criminal Code which have been acted on by the Federal Government.

The Ministry has also continued its participation on the federal-provincial task force developing uniform rules of Evidence.

8. Extradition

With the advent of white collar crime, international criminals, swift means of travel and the nearness of international borders, we are now finding that this Branch is called upon almost daily to proceed with extradition hearings of criminals who have travelled across international borders to escape Canadian criminal law. To prosecute the international criminal, it is now becoming necessary to apply for Letters Rogatory and orders to take Commission Evidence in foreign countries. In co-operation with the foreign authorities, we reciprocate and assist them with their requests for extradition, Letters Rogatory and Commission Evidence.

9. Other Responsibilities

This Branch also handles various administrative matters in the criminal justice field, including transfer of charges under the Criminal Code, transfer of probation Criminal Records Act, the

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Lord's Day Act and many prosecutions under provincial and federal statutes other than the Criminal Code of Canada. Another time-consuming responsibility is the administration of the Protection of Privacy Act in reference to wiretap authorizations. Advice and assistance, involving the preparation of formal opinions, service on interdepartmental committees or the provision of informal expert opinion, to other government departments, local Crown Attorneys and others involved in the administration of justice in Ontario on an "on-call" basis constitutes an important part of the Branch's workload.

Crown Attorneys' System

J. D. Takach, Q.C.,
Deputy Director of Criminal Law and
Director of Crown Attorneys

W. H. Langdon, Q.C.,
Deputy Director of Crown Attorneys

History

Prosecution authority rested originally with the Attorney General and his officers at the capital of Upper Canada. As the population expanded numerically and geographically it became increasingly difficult to carry out this responsibility from one central office. In 1857, authority was granted for the establishment in each county of a prosecution office under the direction of a Crown Attorney appointed by the Governor. The Crown Attorney was required to be a resident of the county, and as such was a part of the local administration of justice which included the local sheriff and the jury made up of residents of the area.

Modernization has strengthened the relationship between the Crown Attorney, with his local responsibilities, and the Attorney General, who is responsible for the administration of justice throughout the Province. In 1955, the office of Director of Public Prosecutions was created to co-ordinate the activities of the local Crown Attorneys. In 1964, authority was given for the appointment of Crown Attorneys at large, to act as special prosecutors in difficult or specialized cases. The desire for improved communication in the system gave rise in 1966 to the Crown Attorneys Association, a voluntary group of

Crown Attorneys and their assistants who meet to discuss common problems, conduct seminars to keep pace with the changes in the law, and promote an interchange of personnel to deal with temporary absences or unusually busy trial schedules.

Composition Today

The Crown Attorneys' System is composed of 204 lawyers who specialize in criminal law. In Toronto, the Office of the Director of Crown Attorneys consists of the Director, the Deputy Director and two Crown Counsel, one of whom is assigned to local offices that require temporary assistance, and the other is delegated various assignments by the Director and Deputy Director. There are 46 full-time Crown Attorneys, two part-time Crown Attorneys, four Deputy Crown Attorneys in York County and 148 Assistant Crown Attorneys, nine of whom are female.

The largest local office is in the Judicial District of York, where the Crown Attorney is assisted by four Deputies and 61 Assistant Crown Attorneys. The other offices have staffs ranging in number from one to 11 lawyers. Finally, the Crown Attorneys supervise the 370 part-time Assistant Crown Attorneys throughout the Province who are engaged on a daily basis from time to time.

In 1976 a Regionalization program was instituted in which nine existing Crown Attorneys were designated as Regional Crown Attorneys. The Regional Crown Attorneys meet regularly in Toronto with the Director, the Deputy Director and upon occasion, with the Attorney General. The Regionalization program enables the Regional Crown Attorney to bring matters of regional concern to the attention of the Director, to confer with other Crown Attorneys within their region and the other Regional Crown Attorneys. Regionalization also has regularized the relief system concerning occasional shortages of manpower and strengthened the principle of a uniform administration of justice without undermining the significant contribution local Crown Attorneys have made and will continue to make in the future.

Responsibilities

The Crown Attorneys' System is responsible for the conduct of prosecutions under the Criminal

Code and other Federal statutes such as the Juvenile Delinquents Act. Crown Attorneys also conduct prosecutions under such Provincial statutes as the Highway Traffic Act and the Liquor Licence Act. Crown Attorneys and their Assistants exercise the Attorney General's discretionary powers with respect to prosecutions. They choose the appropriate charges upon which to proceed, consider the release of prisoners pending trial, and conduct trials at all levels of Court.

Crown Attorneys also watch over private summary conviction prosecutions and intervene if the interests of the community require it.

In addition, Crown Attorneys represent the Crown in all summary conviction appeals held in the County or District Courts. They also act as Counsel to the Coroner during the many inquests held each year in Ontario.

METFORS

In the summer of 1977, the Metropolitan Toronto Forensic Service (METFORS) began its operations in two floors of the Queen Street Mental Hospital at 999 Queen Street West, Toronto. METFORS is governed by a Board consisting of the Chairman, Mr. Peter Rickaby, Crown Attorney for York, a representative from each of the Ministries of Health and Corrections, the Clarke Institute and the Director who meet once a month to review the METFORS' operation.

Prior to the implementation of METFORS, notwithstanding the efforts of all concerned, substantial delays were experienced in obtaining Court-ordered mental assessments of accused persons. The Courts are interested in the mental stability of a newly arrested accused (if he appears to be suffering from some mental disorder) as it may affect his attendance for trial if released on bail, or the danger either to the public or himself which might result if he were released from custody. The Court also is interested in his fitness to stand his eventual trial.

METFORS is able to provide the Courts within two or three days of the date of arrest with a thoroughly researched assessment which may

guide the Courts in determining the often delicate question of bail and the other issues referred to earlier.

Scarborough Disclosure Project

In 1978 a project was introduced at the Scarborough Crown Attorney's Office, to shorten the period of time between arrest and trial or preliminary inquiry, to expedite pleas of guilty, to reduce the amount of Court Time required to deal with simple adjournments and the number of attendances by defence counsel, and to shorten the duration of preliminary inquiries by eliminating, through disclosure of evidence, the necessity of calling certain witnesses.

The project is being monitored by the Crown Attorneys' Office in an attempt to determine whether actual Court time is being saved and more importantly, whether the length of trials and preliminaries is being significantly reduced.

Additional College Park Courtrooms

In September, 10 new courtrooms opened on the site of the Eaton's College Street Store in Toronto. Six of these courtrooms will be utilized by the Provincial Court (Criminal Division) to try criminal cases arising exclusively from three East Toronto Police Divisions. A number of Judges and Assistant Crown Attorneys, with concomitant Court staffs will be attending these Courts. In addition, the results of a trial project initiated last year by Associate Chief Judge Harold Rice will be introduced. One Judge and one Assistant Crown Attorney will be assigned to the total criminal product of these Divisions over a period of probably two weeks. The Court thus established will be allowed between 70 and 90 days to dispose of this product and then will in turn receive another two weeks' product to deal with. The continuous attention by the same Court personnel to a selected number of cases in this manner should eliminate the worst excesses of trial delay and confusion that obtain presently at the Old City Hall in Toronto, due to the fact that both the Judge and the Crown Attorney in each Court will rapidly become familiar both with the cases before them and their history, and thus can avoid the present duplication of research and preparation when the Judge and/or the Crown Attorney are changed too frequently.

The Ministry of the Attorney General

CIVIL LITIGATION AND LEGAL ADVISORY SERVICES

Blenus Wright, Q.C.,
Assistant Deputy Attorney General

The Assistant Deputy Attorney General is responsible for the operation of the Crown Law Office — Civil Law — which is divided into the Constitutional Law and Civil Law Divisions. He is also in charge of liaison between the Ministry and the Ontario Municipal Board and he deals with conflict of interest matters. He is the Attorney General's representative on the Rules Committee of the Supreme and County Courts, the Civil Procedure Revision Committee and the Law Foundation of Ontario.

Constitutional Law

D. W. Mundell, Q.C.,
Director

The branch consists of five lawyers including the director.

Federal-Provincial Conferences

In addition to its regular functions of advising all ministries on constitutional questions and reviewing all litigation in Ontario courts and in the Supreme Court of Canada in which constitutional questions are raised, and engaging in such litigation where advisable, the operations of the Division were greatly expanded this year by federal/provincial constitutional conferences on amendment of the British North America Act and on proposals for disentanglement of federal and provincial governmental programs.

The constitutional conferences arose as a result of the introduction in June, 1978, into Parliament by the federal government of a proposed Bill (C-60) for the establishment of a new Canadian Constitution to replace the British North America Acts and related legislation. The Bill included proposals for a constitutionally entrenched Bill of Rights, revision of the constitution of the Senate, revision of the constitutional provisions relating to the Monarchy and the Executive Government of Canada and the provinces, proposals for amendment to the distribution of legislative powers between Parliament and the Legislatures

of the provinces, constitutional entrenchment of the Supreme Court of Canada and the appointment of judges, and other related amendments. These provisions required extensive detailed consideration by the Division and assessment of their constitutionality and of their advisability as constitutional revisions. With the assistance of Senior Legislative Counsel of the Ministry alternative drafts were prepared of certain portions of the Bill.

Following studies that had been carried on for some years by provincial governments of intrusions by the federal government into areas of provincial constitutional responsibility resulting in overlapping of governmental functions and conflict and confusion, negotiations were commenced during the year with the federal government to attempt to disentangle the functions of the two levels of government. Detailed studies of large areas of federal and provincial legislation are required.

Members of the Division were involved in almost continuous preparation for these conferences and in studies following on each conference. Over 15 formal Interministerial meetings were held with Ministers in preparation for the conferences, in addition to numerous informal discussions and meetings of officials. It was necessary for two or three members of the Division to assist in the preparation and to attend each conference to provide personnel to represent Ontario on sub-committees established by the conferences. Senior Legislative Counsel of the Ministry also attended the conferences.

The main emphasis in these conferences was on the constitutional proposals but they also dealt with the proposed disentanglement of governmental programs and provided for continuing consideration of this problem.

Litigation Services

With respect to the normal operations of the Division, the Attorney General received 26 notices of constitutional questions being raised in the Ontario courts and 16 notices of constitutional issues arising in cases before the Supreme Court of Canada. These required analysis of the questions involved and assessment as to the advisability of the Attorney General for Ontario being represented. In the

result the Division represented the Attorney General for Ontario in 19 cases. In addition, members of the Division co-operated with members of the Civil Law Division and the Criminal Law Branch in questions arising in matters dealt with by them.

Important cases in the Supreme Court of Canada in which the members of the Division took part during the year included:

R.v. Hauser

The Attorney General for Ontario intervened in this case which arose in Alberta to protect the function of the Attorney General in the administration of justice and supervision of prosecutions. Judgment held that Parliament may designate the Attorney General of Canada as prosecutor for offences under statutes passed under a head of power other than the criminal law head.

Attorney General of Canada et al v. Keable

Ontario intervened in this case arising in Quebec raising the question of provincial authority to investigate aspects of the Royal Canadian Mounted Police in relation to criminal investigations. Judgment held that the province had no authority to investigate the organization and direction of the R.C.M.P.

R. v. Cordes

The issue was of the extent of provincial power to investigate crime by means of wire taps. Judgment upheld the authority of the Solicitor General of Canada in respect of narcotics offences.

City of Mississauga v. Regional Municipality of Peel

The Supreme Court of Canada upheld the constitutional authority of provincial legislation conferring jurisdiction on the Ontario Municipal Board to allocate assets between the new city and the new regional municipality.

R. v. Dominion Stores Limited

The issue is the validity of the Canada Agricultural Products Standards Act in its application to local retail trade in the province. Judgment is reserved.

Reference re Validity of Federal Proposals for Reconstitution of the Senate

This question arose out of the federal Bill (C-60) to enact a new Constitution for Canada. The Attorney General for Ontario argued that Parliament does not have authority unilaterally to reconstitute the Senate. Judgment is reserved.

Canadian Pioneer Management et al v. Labour Relations Board of Saskatchewan

The Attorney General for Ontario intervened on this appeal arising out of a labour union certification in Saskatchewan to protect provincial regulatory control of trust companies. The case is pending.

Her Majesty the Queen v. Air Canada

The Attorney General for Ontario intervened in this case arising in Manitoba. The issue is whether the province may assess a tax on the consumption of aircraft parts in flights over the province. The case is pending.

Multiple Access Ltd. v. Ontario Securities Commission

The validity of the insider trading provisions of The Securities Act has been held by the Court of Appeal to be inoperative by virtue of the paramountcy of duplicative federal legislation. The Supreme Court of Canada has granted leave to appeal and the appeal is pending.

In addition to the foregoing cases in the Supreme Court of Canada, important constitutional questions were raised in the provincial courts:

Pickering Harbour Commissioners v. Township of Pickering

The issue is the authority of the Harbour Commissioners to control use of lands within the harbour unconnected with navigation and shipping or harbour purposes. The case is being prepared for trial.

The Queen v. Kester and Fred Astaire Dance Studios

The validity of the Ontario Business Practices Act is attacked. The case has been argued and judgment reserved.

The Ministry of the Attorney General

Fogel v. Fogel

The Court of Appeal upheld sections of the Family Law Reform Act providing for division of family assets even when there has been a prior lump sum award under the federal Divorce Act.

Denison Mines v. Ontario Labour Relations Board

The issue is whether the Ontario Employees' Health and Safety Act applies to the operations of a uranium mine company. The case is pending before the Divisional Court.

The Telegram Publishing Co. Ltd. v. William Amm et al

The Court of Appeal held The Employment Standards Act valid insofar as it confers power on a provincially appointed referee to make determinations on rights under it.

Mastercraft Construction Co. v. Baldwin

It was held that the Landlord and Tenant Act may validly regulate the use of a C.B. radio on leasehold premises.

Township of Moore v. Hamilton

The issue was the application of a land use by-law prohibiting commercial uses to a private dock for the construction of which a permit had been granted under the federal Navigable Waters Protection Act. The Court of Appeal held the by-law applied.

R. V. Cottrell Forwarding Company Limited

The issue is whether a freight forwarder carrying on business in Ontario requires a licence under the Public Commercial Vehicles Act. The provincial court held the legislation inapplicable. An appeal has been filed.

Ontario Public Service Employees Union et al v. A.G. Ontario

At issue is the validity of provisions of The Public Service Act restricting federal political activities of provincial public servants. The Supreme Court of Ontario upheld the legislation. An appeal has been filed.

Donline Haulage Ltd. v. The Queen

The Divisional Court upheld the decision of the County Court in favour of the validity of provincial legislation regulating the axle weight of commercial vehicles.

Advisory Services

The Division was called on for legal opinions and advice on the constitutionality of both provincial and federal legislation and proposed legislation, on a wide variety of subjects.

Statistical Summary for Fiscal Year 1978-79

Litigation	
Notices of constitutional issues given under section 36, Judicature Act	26
Notices of constitutional issues from Supreme Court of Canada	16
Constitutional Cases undertaken	19
Formal Opinions	43
Many Informal Opinions given in meetings and consultations with other Ministries	
Proposed Legislation — Advice when requested on	
Provincial	
Federal	
Constitutional Conferences on Amendment of B.N.A. Act	
Formal Meetings	15

The Division has been in operation for only a few years and statistical information on earlier years is not available for comparison.

Program of Operations for the Fiscal Year 1979-80

The Division does not initiate legislative or administrative programs but simply renders legal services on demand on behalf of the Government of Ontario. The Constitutional conferences may continue. Court work and advisory services will continue. It is expected that with the increased expertise acquired by members of the Division, services may be rendered with increasing efficiency in the future.

Civil Law

Julian Polika, Q.C.,
Director

The Branch consists of 18 lawyers, including the Director, and provides independent legal service for all Ministries of the Government, especially in the area of civil litigation.

Workload

There has been no abatement in the growth of the amount of work the Branch has had to deal with. The total number of cases assigned was 2,049 as opposed to 1,491 for the previous year. As of March 31, 1979, there were in excess of 2,100 cases on hand as opposed to 1,800 cases for the previous year. As in the past, approximately 25 per cent of new cases handled were in the area of serious litigation, that is applications for judicial review, Supreme Court of Ontario actions or actions in other Courts such as the Federal Court of Canada. Approximately 30 per cent were motor vehicle actions in all levels of court. Some 200 opinions were provided.

Serving the Ministry of the Attorney General

The Branch provides a complete legal service for the Ministry and, in the area of Civil litigation and opinions, the work has increased and become more varied. In particular, there has been an increase in litigious and advisory matters involving sheriffs. The Branch has been involved in a great number of interpleader applications.

Serving Other Ministries

Work done for the Ministries continues to increase. Branch work involves appearances on behalf of the Government in civil litigation in Small Claims Court, in the County, Supreme and Federal Court Trial Divisions, and in appeals in applications before the Divisional Court, Court of Appeal for Ontario, Federal Court of Appeal and Supreme Court of Canada.

The Branch also appeared before various Boards and Tribunals and conducted provincial prosecutions on behalf of a number of Ministries.

Particular Services Provided

1. Judicial Review

Under The Judicial Review Procedure Act, the Attorney General is entitled to be heard in person or by counsel in all matters of judicial review and, by statute, all applications for judicial review must be served upon the Attorney General. At the time of service, applications are examined to determine whether an intervention will be made on behalf of the Attorney General or whether the Branch will be acting on behalf of a named party. In the fiscal year 1978/79, 276 applications for judicial review were received and counsel for the Branch intervened or appeared on behalf of parties in 141 of these applications.

2. Claims for and against the Crown

Pursuant to The Proceedings Against the Crown Act, a Notice of Claim must be served upon counsel in the Branch before an action is brought against the Crown. This enables counsel to investigate the claim before an action has begun to determine what the position of the Crown will be and whether a settlement is possible. The Branch handles the full range of claims available in law except for certain technical subjects requiring particular expertise such as patents or trademarks.

In the fiscal year 1978/79, the Branch opened 422 such files, excluding claims pertaining to motor vehicle accidents, mechanics' liens and expropriation matters.

3. Motor Vehicle Accident Claims

The Branch acts on behalf of the Government in respect of motor vehicle accident claims where the Government or an employee of the Government has a claim against an individual. Claims against the Government where the Government has no counter-claim are handled by our insurers' counsel. These claims are first handled by the Claims Director; if settlement is not possible an action is brought in the appropriate level of Court, counsel assigned and the matter brought to completion. In the fiscal year 1978/79, 615 such claims were received.

4. Mechanics' Lien Actions

As of January 1, 1976, The Public Works Creditors Payment Act was repealed and the Crown, save for the Ministry of Transportation and Communications, was made subject to the provisions of The Mechanics' Lien Act with the

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exception that a lien could not be attached to property of the Crown. In the fiscal year 1978/79, 74 such actions were handled by the Branch.

5. Expropriations

Over the last three years the Branch developed expertise in the area of expropriations. On behalf of the Ministry of Transportation and Communications and the Ministry of Government Services, the Branch now handles matters before the Land Compensation Board and, if need be, in the Courts. In the fiscal year 1978/79, 27 such matters were handled.

6. Boards and Tribunals

The Branch provides counsel service and advice to various Boards and Tribunals, for example, the Game and Fish Hearing Board, The Environmental Assessment Board, the Ontario Municipal Board, the Criminal Injuries Compensation Board.

The Ontario Human Rights Commission continues to make use of the Branch. Counsel have appeared on behalf of the Commission on Boards of Inquiry ordered by the Minister of Labour to investigate alleged breaches of the Ontario Human Rights Code.

In the fiscal year 1978/79, 79 cases were handled in this particular area.

7. Her Majesty's Proctor

Pursuant to the Matrimonial Causes Act, the position of Her Majesty's Proctor was created to provide an independent officer to assist the Courts in divorce actions and other related matrimonial causes. Counsel within the Branch appear regularly in respect of applications made by a spouse in a divorce action to prevent the issuance of a decree absolute. The Courts also have called upon the Queen's Proctor for assistance in pending matrimonial matters. At present, the Queen's Proctor is the Director of the Branch, Julian Polika. In the fiscal year 1978/79, 96 Queen's Proctor matters were reviewed and counsel within the office actively dealt with 45 of these.

8. Provincial Prosecutions

The Branch has been called upon to conduct provincial prosecution cases involving a particular area of expertise or when the matter transcends county boundaries. In particular, prosecutions have been conducted on behalf of

the Ministry of Revenue under The Retail Sales Tax Act and on behalf of the Ministry of Natural Resources under The Game and Fish Act and related statutes. In the fiscal year 1978/79, 16 such prosecutions were conducted.

9. Advisory Services — Providing legal opinions
The Branch, in response to specific inquiries from the Ministries, provides legal opinions on a wide variety of subjects involving interpretation of Provincial statutes. These opinions may also be prepared with a view to establishing a position for a Ministry in anticipation of litigation or as a result of litigation. In the fiscal year 1978/79, 200 opinions were provided.

10. Legislative Advice

The Branch is frequently involved in the preparation of legislation where a change may be necessitated by a court judgment. This requires constant liaison with the Ministries concerned in order to ensure that the legislative changes conform to judicial pronouncements as well as to the needs of a Ministry. In addition, in relation to statutes administered by the Ministry of the Attorney General, legal officers are expected to recommend necessary changes and to work with the Policy Development Division and with the Legislative Counsel's office to see that those changes are carried out. On a day-to-day basis, legal officers answer public inquiries pertaining to statutes administered by the Ministry.

11. Solicitors Work

The Branch provides a full range of solicitor's services to the Ministries and, in particular, to the Ministry of Industry and Tourism, which does not have its own legal branch. The Branch has conducted all solicitor's services for Ontario Place Corporation.

12. Petitions to Cabinet

Counsel in the Branch are responsible for preparing petitions to Cabinet originating primarily because of statutory provisions in The Ontario Municipal Board Act and The Ontario Highway Transport Board Act. In the fiscal year 1978-79, 186 such matters were received, a 109 per cent increase over the 89 of the previous year.

Statistical Review of 1978/79 Workload

The chart set out below shows that 2,049 files were assigned in the fiscal year ending March 31,

1979, an increase of 37.4 per cent over the preceding fiscal year. An important trend has developed in that the present level of intake is 170 files per month as compared to 124 for the previous fiscal year.

The Director reviewed 375 matters pertaining to applications for judicial review, Queen's Proctor matters and habeas corpus applications and it was decided after consultation with the appropriate Ministry where applicable not to intervene in 216 of those cases, a 21 per cent

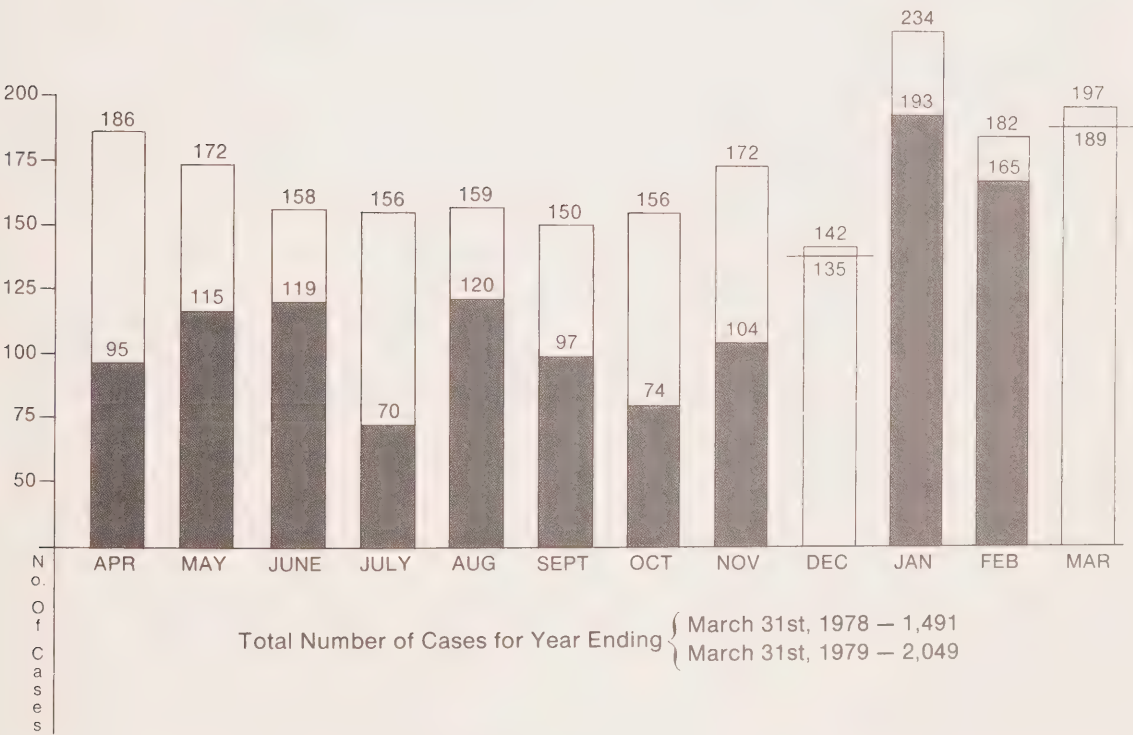
increase over the prior fiscal year.

At the close of the fiscal year on March 31, 1979, counsel in the Branch had on hand in excess of 2,100 files, an increase of 17 per cent over the previous year. This carry-over of files has increased at only 50 per cent of the rate of increase of files handled by the Branch indicating an increase in Branch efficiency in the fiscal year. By comparison in the prior fiscal year there was a carry-over of over 1,800 files while only 1,491 were opened.

Crown Law Office — Civil Law

Number of Cases Assigned by Month

■ April 1977-April 1978 □ April 1978-April 1979



Forecast of Operational Activities

The Branch does not develop new programs and activities. The Branch, for practical purposes, simply renders legal services on behalf of the Government.

It is anticipated that during the fiscal year 1979/80, the Branch will handle some 2,750 new cases in addition to the carryover of 2,100 cases. A comparison of the number of files opened with the carryover figures for the last two fiscal years

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indicates that as of March 31, 1980, the Branch will have approximately 2,800 files on hand or approximately 140 for each lawyer in the Branch. Legal activity, and in particular civil litigious activity, has and is greatly increasing insofar as it pertains to the Government of Ontario.

French Language Instruction

In the fiscal year 1978/79, approximately 55 per cent of the lawyers on staff were on French language conversation courses. During the fiscal year 1979/80 this level of involvement is expected to be maintained.

Common Legal Services

J. B. Gleason, Q.C.,
Director

All Government lawyers employed by Ministry

The Common Legal Services program involves the provision of legal service to all Ontario Government Ministries, and is responsible for the development of a unified approach to such things as opinions as well as for pay and the evaluation of legal service. It also assists independent boards and commissions in these regards when requested. There are 19 legal branches located in the various ministries, varying in size up to 18 lawyers, all of whom are employed by Common Legal Services on behalf of the Attorney General. This encourages independence of legal opinion within Government ministries and results in consultation on points of law. Common Legal Services is also responsible for retaining private sector counsel where the services of such are required by the Government. In total the Common Legal Services has nearly 235 professional, secretarial, clerical and para-legal persons in its employ.

Professional Development

Professional development of its lawyers is a continuing objective of Common Legal Services. Educational programs offered by the Canadian Bar Association, The Law Society of Upper Canada and The Advocates Society are regularly used for updating and enlarging the legal knowledge of member lawyers. Movement of

lawyers between legal branches and promotion of employees within Common Legal Services are both on the rise, creating more career opportunities for government lawyers.

Liaison with Boards

This office has a liaison responsibility between the Ministry and the Assessment Review Court, the Land Compensation Board, the Board of Negotiation and the Criminal Injuries Compensation Board.

Chief Inquiry Officer

This office spends much time discharging the responsibilities of the chief inquiry officer, pursuant to The Expropriations Act, involving the retainer of and the liaison with inquiry officers throughout the province and a large area of communications with the public in relation to The Expropriations Act generally.

Office of the Official Guardian

L. W. Perry, Q.C.,
Official Guardian

Function

The Official Guardian provides legal services for minors, unborn and unascertained persons, mental incompetents and absentees in accordance with the provisions of Section 107(2) of the Judicature Act.

General

The work of the office has grown from 15,801 new cases in 1974 to 19,642 in the calendar year 1978, an increase of 24 per cent in five years.

The office has a staff of 64. It also uses the services of lawyers who act as agents throughout the province. It employs Children's Aid Societies outside Toronto and freelance social workers in Toronto to assist in investigation and preparation of reports in the increasing number of divorce and custody actions.

The Official Guardian participates in a Court Conciliation Project designated to preserve the sanctity of family life from improvident dissolution of marriages to the detriment of families in general and children in particular.

The Official Guardian is a member of a committee revising the Rules of Practice of the Supreme Court of Ontario.

The Official Guardian provides independent representation for children in matters arising out of the Unified Family Court Project in Hamilton. The Office also provides representation for unrepresented mentally incompetent persons who refuse medical treatment under the Mental Incompetency Act.

The Official Guardian has a new role under The Child Welfare Act to determine appropriate legal action which should be taken on behalf of victims of child abuse who are not wards of Children's Aid Societies. Such action includes initiating applications before the Criminal Injury Compensation Boards.

The Official Guardian is an ex-officio member of the Inter-ministerial Committee on consent to medical treatment.

Increasing Demand

The Official Guardian tries to contribute to developments in family and child law and to meet new, related responsibilities.

The Law Reform Commissions of Canada and Ontario have strongly recommended that the law give more adequate protection of the personal rights of minors in addition to the traditional protection of their proprietary interests. Judges are now appointing the Official Guardian ad litem (counsel) to represent children in custody and access proceedings.

Another major concern is the adoption of children of unwed mothers whose consent to adoption is required and which is often obtained before a guardian ad litem is appointed and the minor mother has had independent legal advice. The Official Guardian provides legal advice to unwed mothers before they consent to adoption. This important and far-reaching development will tend to curb improper placement of children by lawyers and doctors who might inadvertently or otherwise take advantage of unwed mothers to the serious detriment of the infants concerned.

The Official Guardian continues to provide legal assistance for minors who are apprehended by Children's Aid Societies under Part II of the Child Welfare Act in cases in which there is conflict between the Societies' proposal and the wishes of the minor.

Report of Operations

The statistical data for the fiscal year 1978-79 and for the calendar years 1975 through 1978 is as follows:

Surrogate Court Audits	1975	608	(Decrease in 1975)	21
	1976	640	(Increase in 1976)	32
	1977	594	(Decrease in 1977)	46
	1978	605	(Increase in 1978)	11
Fiscal Year 1978-1979 — 607				
Matrimonial Causes New Matters	1975	12,738	(Increase in 1975)	740
	1976	13,378	(Increase in 1976)	640
	1977	13,423	(Increase in 1977)	45
	1978	13,733	(Increase in 1978)	310
Fiscal Year 1978-1979 — 13,845				
Number of Payments into Court	1975	189	(Decrease in 1975)	1
	1976	232	(Increase in 1976)	43
	1977	285	(Increase in 1977)	53
	1978	274	(Decrease in 1978)	11
Fiscal Year 1978-1979 — 282				

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New Fiats authorizing payments out of Court for maintenance and other purposes	1975	384	(Increase in 1975)	113
	1976	417	(Increase in 1976)	33
	1977	458	(Increase in 1977)	41
	1978	464	(Increase in 1978)	6

Fiscal Year 1978-1979 — 469

Number of Payments out of Court pursuant to existing Fiats	1975	1,607	(Increase in 1975)	35
	1976	1,787	(Increase in 1976)	180
	1977	1,883	(Increase in 1977)	96
	1978	1,864	(Decrease in 1978)	19

Fiscal Year 1978-1979 — 1,864

General Counsel Work in Matters arising out of: The Child Welfare Act; The Dependents' Relief Act; The devolution of Estates Act; The Dower Act; The Fatal Accidents Act; The Highway Traffic Act; The Infants Act; The Settled Estates Act; The Surrogate Court Act; The Trustee Act; The Variation of Trusts Act; The Wills Act; The Insurance Act; The Mortgages Act; The Partition Act.

	1975	1,125	(Decrease in 1975)	16
	1976	1,325	(Increase in 1976)	200
	1977	2,010	(Increase in 1977)	685
	1978	1,330	*	

Fiscal Year 1978-1979 — 1,338

Child Representation in Custody and Access Matters	1976	79		
	1977	127	(Increase in 1977)	48
	1978	172	(Increase in 1978)	45

Fiscal Year 1978-1979 — 172

Child Welfare Counsel Work (* Previously shown under General Counsel Work)	1978	1,200	(Increase in 1978)	1,200
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Fiscal Year 1978-1979 — 1,225

New Miscellaneous Matters

Numerous attendances, telephone inquiries and extensive correspondence, both with solicitors and the public about how to deal with the personal and financial welfare of infants.

The total number of New Matters and Cases in the Years

1975	16,651
1976	17,858
1977	18,780
1978	19,642

Fiscal Year 1978-1979 — 19,802

Forecast of Operational Activities

The office of the Official Guardian will continue to render legal services on behalf of persons under a legal disability consisting mainly of minors and mental incompetents. It will also keep abreast and contribute to developments in Family and Child Law and exercise its specific responsibility to provide independent representation in relation to the Unified Family Project in Hamilton. Another major Branch activity will be the implementation of Child Representation in Part II applications under The Child Welfare Act. This program will involve not only an accelerated delivery of legal services in these matters by staff counsel but also the development, administering, training and monitoring panels of solicitors from the private bar who will provide this service throughout the Province.

General Counsel Work	1979-80	1,500
	1980-81	1,600
	1981-82	1,700
	1982-83	1,800
Child Representation in Custody and Access Matters	1979-80	500
	1980-81	3,500
	1981-82	4,000
	1982-83	4,500
Child Welfare Counsel Work (included under General Counsel Work in 1978/79)	1979-80	3,500
	1980-81	4,000
	1981-82	4,500
	1982-83	5,500

The Forecast of the Program and Activities for the Fiscal Year 1979-80 and the Three Succeeding Years are as Follows:

Surrogate Court Audits	1979-80	650
	1980-81	650
	1981-82	650
	1982-83	650
Matrimonial Causes New Matters	1979-80	14,000
	1980-81	14,500
	1981-82	15,000
	1982-83	15,500
Payments Into Court	1979-80	275
	1980-81	275
	1981-82	300
	1982-83	300
New Fiats Authorizing Payments Out of Court for Maintenance and Other Purposes	1979-80	500
	1980-81	550
	1981-82	600
	1982-83	650
Payments Out of Court Pursuant to Existing Fiats	1979-80	2,000
	1980-81	2,100
	1981-82	2,200
	1982-83	2,300

The Ministry of the Attorney General

Public Trustee

A. J. McComiskey, Q.C.,
Public Trustee

Responsibilities

The Public Trustee has responsibilities placed on his office by a number of Ontario Statutes. The main functions of the officer are:—

1. Administering the estates as Committee of persons certified as incompetent in psychiatric facilities under The Mental Health Act, or declared incompetent under The Mental Incompetency Act, or upon accepting a Power of Attorney under The Power of Attorney Act.
2. Administering the estates of persons who die in Ontario without Wills and without next-of-kin surviving in the Province.
3. Supervising charitable organizations pursuant to the provisions of The Charities Accounting Act, The Charitable Gifts Act and The Mortmain and Charitable Uses Act.
4. Protecting the interest of the Crown under The Escheats Act.
5. Acting as a depositor for the interests of shareholders who cannot be located at the time of the winding-up of a Company in which the absentee had a share interest.

Changes during fiscal year

In the past fiscal year amendments to The Mental Health Act provided for the certification of out-patients of psychiatric facilities as distinct from patients who were hospitalized. It was anticipated that this would add greatly to the number of estates to be administered and that the estates of out-patients living in the community would require much closer supervision. Fortunately, the number of additional estates to date has not been as large as was expected.

Proposals were made during the year to give the Public Trustee power to consent to surgical procedures when there was no other person available to give the necessary consent under the provisions of the Regulations to The Public Hospitals Act. Following the moratorium imposed on sterilizations in December of 1978, this whole subject is under review by a committee set up by Cabinet.

Much of the work performed by the office is labour oriented. Old-fashioned mechanical accounting procedures have proven unable to cope with an increasing volume of the work and the desire of the office to perform services accurately, efficiently and promptly. Steady progress has been made toward the implementation of data processing which it is expected will increase the ability of the office to record and distribute information.

Financial Operations

The office of The Public Trustee now has assets under administration in excess of \$190,000,000. Expenses in the operation of the office have increased by approximately 15 per cent during the past fiscal year. During the same period total revenue has almost doubled to \$7,000,000 with almost one-half of that being net revenue to the office. At the date of this report the financial statements for the fiscal year are not finalized but tentative financial statements and statistical reports for the year ended March 31, 1979, are set out below.

Statistical Review

	As at March 31	
	1979	1978
Assets under Administration	\$190,704,850	\$ 169,670,311
Revenue	6,963,471	3,681,297
Operating Expenses	3,471,910	3,035,470
Excess of Revenue over Expenditure	3,491,561	645,827
Surplus	9,086,154	5,596,593
Cash Receipts	55,859,917	46,014,429
Public Trustee Investments at Book Value	88,603,950	89,594,462
No. of Files — Estates and Trusts	27,313	25,283
No. of Files — Charities	28,558	27,036
No. of Staff	155	155

The Ministry of the Attorney General

Balance Sheet as at March 31, 1979

	1979	1978
Assets		
Estates and Trusts		
Cash in Bank	\$ 231,753	\$ 55,729
Funds Invested	85,495,000	85,810,000
Bonds	37,938,721	24,240,192
Stocks	4,038,307	3,754,106
Mortgages Receivable	2,167,946	1,937,991
Real Estate	24,837,663	24,879,973
Life Insurance and Pensions	25,332,664	21,737,535
Miscellaneous	2,181,351	2,417,017
	182,223,405	164,832,543
Less: Mortgage Payable	1,036,352	1,146,496
	181,187,053	163,686,047
Administration Fund Account		
Cash in Bank	37,797	24,264
Funds Invested	9,480,000	5,960,000
	9,517,797	5,984,264
Total Assets	\$190,704,850	\$ 169,670,311
Liabilities		
Estates and Trusts		
Patients' Estates	\$136,990,105	\$ 123,346,070
Crown Estates	14,138,269	12,427,601
Probable Escheats	8,575,996	8,531,449
Special Trusts	12,301,922	10,969,964
Company Trusts	4,099,412	3,454,747
Indian Trusts	184,513	187,716
Unclaimed Balances	305,879	310,682
Cemetery Trusts	4,524,640	4,386,224
Child Welfare	66,317	71,594
	181,187,053	163,686,047
Administration Fund Account		
Current Liabilities	231,643	187,671
Assurance Fund	200,000	200,000
Surplus	9,086,154	5,596,593
	9,517,797	5,984,264
Total Liabilities	\$190,704,850	\$ 169,670,311

Statement of Revenue and Expenses as at March 31

	1979	1978
Revenue		
Fees: Patients' Estates	\$2,058,680	\$1,013,915
Crown Estates	473,697	484,992
Special Trusts	160,130	115,712
Company Trusts	16,548	14,765
Cemetery Trusts	17,082	17,443
Charities	40,092	32,216
Total Fees	2,766,229	1,679,043
Bank Interest	13,529	12,098
Income from Investment Fund Account, Net	4,184,009	1,991,884
	6,963,767	3,683,025
Deduct debit balances written off	296	1,728
	\$6,963,471	\$3,681,297
Expenses		
Salaries	\$2,408,439	\$2,097,147
Employees Benefits	362,163	296,361
Transportation and Communications	73,517	78,556
Services	544,316	481,614
Supplies and Equipment	83,475	81,792
	3,471,910	3,035,470
Excess of Revenue over Expenditure	\$3,491,561	\$ 645,827

Statement of Surplus

Balance at beginning of year	\$5,596,593	\$4,950,766
Less payment re insurance claim	2,000	0
	5,594,593	4,950,766
Add Excess of revenue over expenditure	3,491,561	645,827
Balance at end of year	\$9,086,154	\$5,596,593

The Ministry of the Attorney General

Investment Fund Account

	As of March 31	
	1979	1978
Bank Term Deposits	\$ 4,200,000	\$ 1,000,000
Bonds at Amortized Cost	88,603,950	88,594,462
Accrued Interest Received	2,085,901	2,083,282
Cash in Bank	85,148	92,256
	<u>\$94,974,999</u>	<u>\$91,770,000</u>
Interest Earned on Investments	\$ 8,261,029	\$ 7,737,708
Interest Earned on Bank Accounts	89,369	37,363
	<u>8,350,398</u>	<u>7,775,071</u>
Less: Interest Allowed	4,166,389	4,180,329
Book Loss on Exchange of Securities	0	1,602,858
	<u>4,166,389</u>	<u>5,783,187</u>
Net Earnings	\$ 4,184,009	\$ 1,991,884

Securities Held for Investment Fund Account as at March 31, 1979

	Par Value	Amortized Cost	Quoted Market Value
Province of Ontario	\$13,450,000	\$13,431,350	\$11,843,875
Ontario Hydro	75,687,000	75,172,600	69,065,234
Bank of Montreal Term Deposit Receipt	4,200,000	4,200,000	4,200,000
	<u>\$93,337,000</u>	<u>\$92,803,950</u>	<u>\$85,109,109</u>

PROGRAMS AND ADMINISTRATION DIVISION

G. H. Carter,
General Manager

Mr. G. H. Carter was appointed General Manager effective September 5, 1978, filling the vacancy created by the appointment of B. W. McLoughlin as Assistant Deputy Attorney General and Director of Courts Administration.

Function

This section of the Ministry is responsible for directing and co-ordinating the Ministry's general support services including personnel, financial management, auditing and administrative procedures. In 1978/79 emphasis was again placed on increasing the efficiency of available resources in compliance with the Ontario Government's continued constraint measures.

Financial Management Branch

H. A. Gibbs,
Director

During the fiscal year 1978/79, the efforts of the Branch continued to be directed towards innovations leading to economies in the cost of Ministry operations and directing attention to the areas where increases in revenue could reasonably be obtained.

On the cost side, several new initiatives were developed; in particular, arrangements have been set in train to obtain a mini-computer of greater capability than the one now in use. This acquisition will enable the Ministry to implement techniques for providing much finer costing of operational functions than is at present possible. The annual cost of such a replacement machine will be less than the cost of the existing mini-computer.

With regard to revenues, action is now taking place on the recommendations which arose from the 1977/78 study. One of the major areas of review is the structure and pricing of the services offered to the citizen by judicial offices, and upon completion of this project a useful increase in Ministry revenues should materialise.

Management of funds in the custody of the Ministry both in the short and the long term is, at today's high rates of interest, of vital concern. Two major areas in the Ministry are now undergoing study to determine whether improvements in our cash management methods can be achieved.

Priority also continues to be given to the management of accounts receivable owing to the Province, amounting to \$20,125,896 at March 31, 1979. Every improvement in our collection ratio is a positive reinforcement of the Treasurer's efforts to bridge the gap between Provincial expenditures and Provincial revenues.

Audit Services Branch

G. L. Wilcox,
Director

Audits

Audits of Court and Judicial Offices, Branches, Boards and Commissions, showed an improved rate of completion, with Special Assignments and Investigations placing continued heavy demand (631½ man-days) on the Branch's restricted personnel resources. The Survey of Police Services, which required full-time secondment of one auditor, was completed in October, 1978.

Defaulted Fines/License Suspension System

Suspension activity and rate of reinstatement rose above the previous year's level. The cumulative rate of reinstatements was 78.9 per cent as at March 31, 1979, representing a value of \$9,793,448. The current rate of reinstatements is in excess of 90 per cent.

Personnel Management Branch

O. M. Mitchell,
Director

The optimum utilization of human resources is the primary responsibility of the Branch.

Continuing fiscal and staffing restraints affected the Ministry's staffing program, but we continued

The Ministry of the Attorney General

to support and benefit from Province sponsored work programs.

Branch activity in Organisation and Position Administration reflected Ministry re-organisation and legislative changes, such as the institution of a Statute Translation Program and the implementation of Family Law Reform. Conversion of Management positions to the Management Compensation Plan continued.

Ongoing assistance is provided to Managers in the interpretation of Collective Agreements and in constructive guidance in the resolution of complaints. A pilot pre-Retirement program was developed with other Ministries in the Justice Policy Field.

Staff development is becoming increasingly important. Courses sponsored by the Civil Service Commission are well supported and the Ministry's Management Development Courses, presented in co-operation with Sheridan College, are geared to this Ministry's program objectives.

Planning and Evaluation Branch

J. Solymos,
Director

The continuing responsibility of the Planning and Evaluation Branch is to provide advice and assistance to Ministry program managers in the development and implementation of performance measurement systems to ensure optimum resources utilization and effective service delivery through improved planning and management processes.

Management by Results

The most significant achievement in 1978-79 was the development and/or improvement of the results-oriented management system in most key operations of the Ministry. This system combines two separate information flows, one on workload and the other on resource levels. Its twofold purpose is to provide for the assessment of actual operating results in relation to current budgets and to facilitate the development and substantiation of future budgets in terms of resources required for planned operational levels. Coverage by this reporting system was brought to about 89 per cent of the Ministry's

budget in 1978-79. In addition to regular planning activities, plans of both single and multi-year terms were developed to outline future financial and service level implications of on-going operations and new initiatives. Other work related to the administration of certain federal-provincial cost-sharing agreements affecting Legal Aid, Native Peoples and Unified Family Courts, and Criminal Injuries Compensation.

Special Evaluations

Other services provided by the branch included the development of operational data and the evaluation of the budgetary and service delivery implications of specific issues such as the tariff revision for Legal Aid, development of the Child Representation program for submission to Cabinet Committees.

Information and Computer Systems Branch

D. Mueller,
Director

The Information and Computer Systems Branch was established during this fiscal year by combining the former Systems Development and Management Information Systems Branches.

The management of the Branch undertook a workload survey in order to formulate staffing requirements for the Branch. The findings of the survey resulted in presentations to the Management Board Secretariat for approval to re-organize. Subsequently all position specifications were examined and re-written and presented to the Civil Service Commission for classification. In addition, administrative procedures to monitor and control the cost and effectiveness of projects were established.

The Branch provides a variety of services related to the application of data processing. Services offered consist of project management, administrative consulting, feasibility studies, systems analysis and design, computer programming, data entry studies, word processing and evaluations of hardware/software alternatives.

The staff of the Branch undertook 56 projects during this fiscal year. The nature and size of the projects varied from consulting assignments in

an advisory capacity, to evaluations of existing program delivery mechanisms and the implementation of automated systems. Branch members continued to participate in the development of the Public Trustee System. Automated systems were implemented in the Oshawa Court Office, Provincial Court Criminal Division; Jury Office, Judicial District of York; and Supreme Court Accountant of Ontario. Feasibility studies were conducted in such areas as the Sheriff's Office, Judicial District of York; Provincial Court Family Division; Assessment Review Court; and the Finance and Administrative Services Branch. A study to identify the administrative support requirements for the implementation of the Provincial Offences Act was completed.

1977-78. The monies paid into Court for suits and matters totalled \$64.2 million while disbursements for the same period were \$58.9 million. In the previous fiscal year the amounts were \$52 million and \$58 million respectively.

Accountant, Supreme Court of Ontario

E. J. McGann,
Accountant

Duties

This office is the depositary for all money, mortgages and securities which are paid into, or lodged with, the Supreme Court of Ontario. These monies, mortgages and securities are received, and disbursed or released pursuant to judgments and orders of the Supreme Court of Ontario, and in accordance with the Judicature Act and other relevant statutes.

The conversion to new electronic accounting equipment commenced in April, 1978 and was completed during the year.

Assets

Assets under management at the end of the fiscal year 1979 totalled \$157 million from \$143 million the previous year. The rate of nine per cent per annum on infants' funds was maintained. The rate of six per cent per annum is paid on other funds being held pending court cases. Both rates are compounded semi-annually and calculated on a minimum monthly basis.

Revenues and Investments

The interest revenue on the portfolio increased to \$13.1 million from \$12 million in the fiscal year

Boards and Commissions

Ontario Law Reform Commission

Chairman:

Derek Mendes da Costa, Q.C., LL.B., LL.M.,
S.J.D.

Vice Chairman:

Honourable George A. Gale, C.C., Q.C., LL.D.

Members:

Honourable Richard A. Bell, P.C., Q.C.

W. Gibson Gray, Q.C.

Honourable James C. McRuer, O.C., LL.D.,
D.C.L.

William R. Poole, Q.C.

Function

The Ontario Law Reform Commission was established as an Independent Commission in 1964 to inquire into and consider any matter relating to:

1. reform of the law having regard to the statute law, the common law and judicial decisions;
2. the administration of justice;
3. judicial and quasi-judicial procedures under any Act; or
4. any subject referred to it by the Attorney General.

Since its establishment, the Commission has been actively engaged in the study of a wide range of subjects within the legislative jurisdiction of the Province of Ontario. The Commission's research and investigations have resulted in 53 reports containing proposals for law reform, as well as 12 Annual Reports briefly outlining its program for each fiscal year. A substantial number of the recommendations in these reports have been adopted, in whole or in part, and have culminated in either new or amending legislation. For example, significant contributions to law reform have been made in respect of family law, the age of majority, and landlord and tenant law: over 13 Commission reports have formed the basis for such statutes as The Family Law Reform Act, S.O. 1978, c. 2, The Succession Law Reform Act, S.O. 1977, c. 40, The Children's Law Reform Act, S.O. 1977, c. 41, The Marriage Act, S.O. 1977, c. 42, The Age of Majority and Accountability Act, S.O. 1971, c. 98, and The Landlord and Tenant Amendment Act, S.O. 1968-69, c. 58 and S.O. 1972, c. 123.

Activities During 1978-79

In 1978-79, the Commission completed a major project on the sale of goods in Ontario. The Commission's three-volume *Report on Sale of Goods* is a companion to its 1972 *Report on Consumer Warranties and Guarantees in the Sale of Goods*. Together, these reports recommend fundamental reform of the law governing the sale of goods in respect of both consumer and non-consumer transactions. The *Report on Sale of Goods* contains approximately 251 recommendations for reform, dealing with topics ranging, for example, from the formation of the contract, through the classification of contractual obligations and the doctrines of unconscionability and good faith, to the rights and remedies of both sellers and buyers. The far-reaching proposals contained in this report are intended to reform and modernize the law governing the sale of goods, promote fair dealing, and assist the continued expansion of commercial practices through custom, usage and agreement of the parties.

In addition to the publication of its *Report on Sale of Goods*, the Commission devoted considerable time to its project on the law of trusts. As well, work proceeded on the Minister's reference on class actions in Ontario. The Commission's project on products liability, which arose out of its work on the sale of goods, was substantially completed. Research also continued on projects initiated by the Commission, including the law of standing, the enforcement of judgment debts, administration of estates of deceased persons, declarations of marital status, and powers of entry. As a result of more urgent commitments, particularly those relating to the project on sale of goods, it has been necessary to suspend or defer research on projects concerning the law of mortgages and the basic principles of land law.

In its activities the Commission has been ably assisted by many members of the bar and of the public. Moreover, as always, the Commission derived considerable benefit from liaison with other law reform agencies throughout the world and with the Uniform Law Conference of Canada.

Annual Report

The Commission's *Twelfth Annual Report 1978*, which deals with the Commission's activities from April 1, 1978 to March 31, 1979, is available from the Ontario Law Reform Commission or from the Government of Ontario Bookstore.

Ontario Municipal Board

Chairman:

W. Shub, Q.C.

Vice-Chairmen:

A. H. Arrell, Q.C.

A. L. McCrae

W. T. Shrives

W. H. J. Thompson, Q.C.

B. E. Smith

D. S. Colbourne

D. D. Diplock, Q.C.

Members:

S. S. Spiegel

H. H. Lancaster

P. M. Brooks

A. B. Ball

H. E. Stewart

C. G. Ebers, Q.C.

H. W. Kelly, Q.C.

J. A. Wheler

E. A. Seaborn

A. J. L. Chapman, Q.C.

W. E. Dyer, Q.C.

C. G. Charron, Q.C.

J. Wadds

K. D. Bindhardt

W. L. Blair

D. H. McRobb

P. G. Wilkes

J. E. Hendy

V. M. Singer, Q.C.

M. D. Henderson

Establishment

Under the authority of The Ontario Municipal Board Act.

Primary Jurisdiction

The Ontario Municipal Board Act, The Municipal Act, The Planning Act, The Assessment Act and diverse Ontario statutes including special legislation.

Functions

To effect the growth and economic stability of municipalities in various fields:

1. Municipal Structure

Constitution, alteration of boundaries and dissolution of municipalities.

2. Capital Expenditure

Financial supervisory role, approval of capital undertakings and the manner of recovery.

3. Planning Administration

Approval of restricted area by-laws, official plans and plans of subdivisions, and appeals from land division committees and committees of adjustment.

4. Assessment Appeals

5. Miscellaneous Applications

Appeals

1. Divisional Court on matters of law and jurisdiction.

2. Petition to Lieutenant Governor in Council.

3. Application to board for rehearing.

1977 Calendar Year

Number of applications — 9,334

Number of hearings — 2,351

The board's annual report is available for more detail.

Assessment Review Court

Chairman:

B. H. B. Bowlby, Q.C.

Vice Chairman:

G. C. Hewson

Vice-Chairman part-time:

S. R. R. McNeil

Members part-time:

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Jurisdiction

The Assessment Review Court was established under The Assessment Act, 1968-69 and continues under The Assessment Review Court Act, 1972. This Court is an administrative tribunal

Boards and Commissions

which draws its jurisdiction from The Assessment Act and The Municipal Act.

The responsibility of the Court is to hear and determine:

1. complaints against real property assessment for the basis of municipal taxation in Ontario at the lowest cost to the taxpayer.
2. appeals from the refusal of municipal clerks to amend the list showing school support for school board taxation.
3. the apportionment of municipal taxes or rates applicable to individual parcels where land has been assessed in block.
4. when authorized by municipal by-law (or by way of an appeal from the decision of a municipal council) applications for cancellation, reduction or refund of municipal taxes; and, when authorized by a municipal council (or by way of an appeal from the decision of a municipal council), applications for an increase in municipal taxes where gross or manifest errors have been made in the collectors' roll.

Administrative Functions

In addition to their duties and responsibilities regarding the processing and scheduling for hearing of assessment complaints, the Regional Registrars of the Court certify the last revised assessment roll of each municipality and also process and schedule all assessment appeals to County or District Court Judges within the Province under Section 55 of The Assessment Act

Summary of Activities

The following is a brief report of the activities of the Court during the period April 1, 1978, to March 31, 1979.

1. Court Sittings

During the year, the Court sat for 1,992 days in various municipalities throughout the Province and heard and determined 132,618 complaints, appeals and applications.

The Regional Registrars processed and scheduled complaints against assessment under Section 44 and 52 and processed and scheduled appeals to the county or district judge under Section 55 of The Assessment Act.

During this period as in 1977-78, the Assessment

Review Court experienced an increase over former years in complaints relating to all types of properties and in particular complaints relating to industrial and income producing properties such as apartment houses, office buildings, shopping centres, plazas and hotels where the complainants were usually represented by professional agents, tax consultants or counsel.

No municipalities were proclaimed at market value for assessment purposes during this period.

2. Training and Development of Court Members and Staff

During this period, groups of Court members attended instructional seminars in Niagara-on-the-Lake, Thunder Bay, Sudbury, London, Sault Ste. Marie, Ottawa, Toronto and Kitchener.

Regional Registrars and Assistant Regional Registrars attended instructional seminars in Orillia, London, Peterborough and Toronto.

Clerks of the Court attended instructional seminars in Ottawa, Sault Ste. Marie, Hamilton, Toronto and Newmarket.

3. Administrative Matters

During this period, the Court continued to review and, where necessary, revised the practice and procedures being followed at Court hearings and assignment hearings to expedite the scheduling of hearings and to avoid conflict of dates set for such hearings.

A summary of Assessment Review Court complaints and appeals is set out in Schedule A.

The purpose of The Assessment Review Court is to hear and determine complaints relating to assessments throughout the province as soon as may be practicable. With the increasing number of complex complaints and the lateness in the return of certain of the assessment rolls there are inevitable delays in scheduling and disposing of the complaints as early as the Court would like, although the majority of all complaints are disposed of in the spring months.

There have been no changes in legislation to affect the operation of the Court in the period of April 1, 1978, to March 31, 1979. However, by regulations enacted early in 1979, the Ministry of Revenue has equalized assessments in prescribed classes of real property in 13 municipalities and in the newly formed City of Kanata under Section 86 of The Assessment Act.

This will substantially increase the number of complaints to be processed and heard by the Court in the fiscal year 1979-80.

Summary of Assessment Review Court Complaints and Appeals

	1976-77	1977-78	1978-79
Section 52 of The Assessment Act (I)	65,197	81,998	86,211
Section 42, 43 of The Assessment Act (II)	6,616	8,013	7,676
Sections 516, 547, 636a, 636b of The Municipal Act (III)	35,227	37,388	42,050
Total	107,040	127,399	135,937

- Footnotes: (I) This section deals with complaints against annual assessment made under Section 40 of The Act.
- (II) This section deals with complaints against additional assessments made under Sections 42 and 43 of The Act.
- (III) These sections deal with applications and appeals relating to:
- (a) School support
 - (b) Apportionment of municipal taxes
 - (c) Cancellation, reduction or refund or municipal taxes
 - (d) Increase in municipal taxes by reason of clerical errors.

Summary of Appeals to County and District Court Judges (Section 55 of the Assessment Act)

1976-77	1977-78	1978-79
4,546	10,245	14,547

Criminal Injuries Compensation Board

Chairman:

Allan Grossman

Vice-chairman (part-time):

Mrs. Anne Stanfield

Vice-chairman (part-time):

Mrs. Audrey Merrett

Members (part-time):

Douglas H. Lissaman, Q.C.

Robert W. Mitchell, Q.C.

Harvey Spiegel, Q.C.

Nathan L. Sandler.

The Board, composed of one full-time and six part-time members, administers The Compensation for Victims of Crime Act, 1971, which succeeded The Law Enforcement Compensation Act, 1967.

Function of Board

The Board decides whether applicants for compensation are eligible and the amount to be awarded. Compensation is awarded, for personal injury only, when a person in Ontario is injured or killed as a result of a crime of violence which is an offence under the Criminal Code of Canada. Injuries caused by a motor vehicle are excluded by the Act unless the vehicle is used as a weapon. Compensation may also be awarded when a person is hurt while lawfully arresting or attempting to arrest someone for an offence against another person; when a person is injured while assisting a law officer; or when someone is injured while preventing or trying to prevent an offence against another person.

Hearings

Hearings of the Board are public except where a public hearing would be prejudicial to a trial, or in cases involving sexual offences. They are held in Toronto and, when practicable, in such centres as Thunder Bay, Sudbury, Sault Ste. Marie, Ottawa, London and Windsor, where hearings took place in the year under review.

Productivity

The Board heard 713 applications, which represents an increase of 25 per cent over the number heard in the previous fiscal year. Total awards granted increased by 8 per cent from \$1,611,836 to \$1,748,484 and the average award declined from \$2,328 to \$1,960 or by 15 per cent. This decline is probably due to an increased proportion of minor claims, arising from a wider awareness of the existence of the program. Applications for compensation rose by 10 per cent from 1,105 to 1,219.

Annual Report

This report is available from the Board's offices at 439 University Avenue, 17th Floor, Toronto M5G 1Y8. Telephone: 965-4755. Brochures in various languages are also available from the Board and can be found in court houses, police stations, legal aid offices, and a number of other public buildings throughout Ontario.

Boards and Commissions

Comparative Summary — Fiscal Years Applications and Disposition

	April 1, 1975 to March 31, 1976	April 1, 1976 to March 31, 1977	April 1, 1977 to March 31, 1978	April 1, 1978 to March 31, 1979
Applications under investigation on April 1	599	914	1188	1500
Eligible applications received	851	971	1105	1219
Applications heard (1)	473	611	570	713
Applications heard and dismissed	75	63	52	47
Applications heard — further evidence required	1	5	nil	nil
Second hearings	4	4	nil	1
Review of awards	1	6	12	6
Decisions completed and awards ordered (2)	451	609	563	713
Files closed	63	86	223	180
Interim awards	3	8	1	6
Supplementary awards	19	25	26	12
Periodic awards	12	21	19	20
Lump sum payments	\$708,640.29	\$1,192,840.37	\$1,310,698.60	\$1,397,994.00
Periodic payments	194,038.00	230,800.56	301,138.28	350,490.75
Total of awards ordered	902,678.29	1,423,640.93	1,611,836.88	1,748,484.75
Average award (3)	1,425.84	1,958.69	2,328.06	1,900.72
Applications under investigation March 31	914	1188	1500	1826

Note: (1) Includes Heard and Dismissed and Heard but Further Evidence Required.

(2) Includes Interim, Supplementary and Periodic Awards.

(3) Periodic Payments not included when arriving at Average Award.

Land Compensation Board

Chairman:

R. M. McGuire

Vice-Chairmen:

Roy Grant

James Worrall

S. R. Cole (Appointed Sept. 5, 1978)

Members:

Grant Campbell

J. Dobbs

George Hobart

G. P. Marriott

D. W. Middleton

E. H. Reed

Registrar:

C. E. Warner

Established

Under the authority of The Expropriations Act,
December 1, 1970.

Function

Arbitration tribunal to determine compensation to be paid in the expropriation of property in the Province.

The procedural changes respecting certificates of readiness introduced in the preceding year have not greatly improved the number of cancellations experienced, but it has reduced the waiting period for scheduling hearings from about six to three months.

There is a continuing reduction in the number of outstanding applications but the Board is experiencing some difficulty in bringing the inactive files on for hearing or to close them out.

The number of applications for arbitration are apparently decreasing but a greater number of the hearings are becoming more protracted and complex, maintaining the utilization of personnel.

Notices of Arbitration filed	104
Applications Outstanding March 31, 1978	349
Applications Outstanding March 31, 1979	330

Board of Negotiation

Chairman:
W. C. Dymond

Members:
J. M. Bennett
J. A. Ferguson
F. L. Heaman
W. J. Mowat
G. W. Swayze

Function

The Board of Negotiation was created by the provision of The Expropriations Act, 1968-69. It provides an informal tribunal which, without prejudice to any subsequent arbitration procedures, may negotiate in a summary and informal manner settlement of a compensation in expropriation cases.

Informality

The Board, upon receiving a written request from either party, arranges meetings between the expropriated party and the expropriating authority. A formal notice is issued to both parties, advising them of the time and place of the meeting, which can be held throughout the province without cost to either party. A unique provision of the Act provides that the Board shall view the property in question.

An individual may appear on his own behalf to present his compensation claim. If no agreement follows these informal negotiations, the parties are free to proceed to arbitration to the Ontario Land Compensation Board.

Monthly Breakdown Fiscal Year April 1, 1978 - March 31, 1979

	Requests Received	Meetings Held
April	17	14
May	33	12
June	21	14
July	12	24
August	19	12
September	18	13
October	19	24
November	13	21
December	5	13
January	10	10
February	11	6
March	11	8
	189	171

Note: At the end of March 31, 1979, there were 22 files left in process:

- nine of the 22 were to be scheduled
- thirteen were scheduled and waiting to be held

Boards and Commissions

Activity Report — Fiscal Year 1978-1979		Two-Year Follow-Up Report Fiscal Year 1977-1978	
Expropriating Party	Number of Applications	Number of requests for meetings (1977-78)	148
Corporation of the City of Cambridge	1	Number of settlements reported following negotiations in the period April 1, 1977 to March 31, 1978	43
Cornwall	1	Requests for meetings — cancelled	13
Hamilton	1	Balance to be surveyed by Two-Year Follow-Up	92
Kitchener	2	This Report is based on replies to 92 Questionnaires mailed to the Expropriating Authorities from whom we had not heard regarding results of 1977-78 meetings.	
London	2	Questionnaires mailed	92
Oshawa	3	Replies received	84
Peterborough	1	Unanswered	8
Sault Ste. Marie	1	Settlements (Board of Negotiation's Recommendation a factor)	35
Welland	1	Proceeded to, or intending to proceed to Land Compensation Board	18
Windsor	3	Still Negotiating	17
Corporation of the Township of Atikokan	2	In Abeyance, pending, not presently being negotiated	14
Gloucester	6		84
Goulbourn	6		
Mara	1		
Nepean	2		
County of Brant	1		
Long Point Region Conservation Authority	6		
Ministry of Government Services	5		
Housing	2		
Transportation and Communications	79		
Municipality of Metropolitan Toronto	14		
Ontario Hydro	23		
Regional Municipality of Durham	1		
Niagara	1		
Ottawa-Carleton	6		
Peel	4		
York	4		
Township of Fort Frances	1		
Whitby	1		
Union Gas	8		
	189		

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The Family Law Reform Act — One Year Later

Introduction

On March 31, 1978 Ontario's new Family Law Reform Act came into force, after consideration by the Legislature and its Justice Committee for over a year. Studies of our family law had been undertaken by the Ontario Law Reform Commission and other groups interested in legal and social reform since the early 1960's. The Family Law Reform Act represents the first systematic attempt in over 90 years to reorganize the rules governing the economic relations between husband and wife and between parent and child.

The new Act contains five main parts: the first sets out the rules for sharing matrimonial property between husband and wife on marriage breakdown; Part II deals with financial support for spouses, children and needy parents; Part III contains special provisions respecting sales and other dealings with the matrimonial home; Part IV provides for marriage contracts, cohabitation agreements and separation agreements; and the fifth part establishes a new basis for damage claims where a family member is injured by the fault of another person.

Like all new legislation, The Family Law Reform Act is subject to a period of testing in the courts to see how the new provisions will be interpreted and applied. The decisions of the courts are of even greater significance than usual for this particular Act, for two reasons. As the provisions of the statute directly affect every man, woman and child in Ontario, there is clearly a very great public interest in how the legislation is applied. As well, many sections of the Act confer a substantial amount of discretion on the courts, and it is useful to have guidelines as to how the judges will exercise their discretion. Accordingly, the ministry has been reviewing all written decisions of the Ontario courts in which new points of interpretation or application of the Act have been raised. Now that we have over a year's experience with The Family Law Reform Act, it is possible to discern some trends in the decisions of the courts which indicate that the Act is being applied in practice in accordance with the theoretical principles which underlie it and are expressed within it. This background paper looks

at the decisions of the courts under the Act up to July 1, 1979.

Matrimonial Property

Under the former law, ownership of matrimonial property as between the spouses depended almost exclusively on whether the spouse claiming an interest had made a contribution to the purchase of the property. If there was no financial contribution, a claim by that spouse to a share of the property would not ordinarily succeed. The new Act alters that rule to give recognition to the mutual contribution made by both spouses to family life, whether the contribution is made outside the home or inside the home, and whether the contribution takes the form of child care, household management or financial provision. To do this, the Act divides the property of the spouses into two categories, family assets and other property. The family assets consist of property used together by the spouses and their children for family purposes — the home, the car, the furniture and other household items. The family assets are to be divided equally between the spouses unless the court feels that equal division would be inequitable having regard to an informal agreement between the spouses, the duration of the marriage, the date and means of acquisition of the property or any other circumstance relevant to the property.

The other category of property, the non-family assets, belong to the person who paid for them, but are subject to sharing between the spouses if one of them made a contribution in work, money or money's worth to property owned by the other, if one spouse has unreasonably diminished the family assets or if the result of a division of the family assets alone would be inequitable. In deciding whether there is inequity here, the court looks at the same factors that it considers when deciding to make an unequal division of family assets, plus whether the homemaking contributions of one spouse have enabled the other to acquire non-family assets. This permits recognition of a contribution to the building up of a business by the indirect means of freeing up the other spouse from the concerns of running a home and raising children, as well as by the direct means of working in the business.

When The Family Law Reform Act was before the Legislature, some groups made submissions

Background Papers

expressing concern over the amount of discretion contained in the Act and the way in which that discretion might be exercised by the courts so as to limit the sharing of assets by housewives. The cases show that the courts have adhered very strictly to the equal sharing of family assets, departing from that position only in unusual cases. Where the wife has discharged the homemaking functions and has earned income and made financial contributions to the welfare of the family, while the husband did not make substantial contributions in either area, the wife has received more than half of the family assets.¹ Where a husband has liquidated family assets in an attempt to defeat his wife's claim, the wife has received more than half the family assets to compensate for the assets disposed of.² The fact that property was acquired by gift or inheritance has reduced the share of one of the spouses, but has not resulted in a complete exemption from sharing.³ In one case, unequal sharing resulted from the acquisition by one spouse of assets before a marriage which lasted only two and a half years.⁴ In the great majority of cases, however, family assets have been divided equally between the spouses and the courts have underlined the principle that equal division is the general rule.

Another major area of interest is the potential division of non-family assets under the Act. There have been several cases where the contributions of a spouse in work or money have received recognition, up to the point of a half share of a business operation or farm where the efforts of the spouses resembled a joint venture.⁵ Of still more interest are the cases where a wife has received a share of business assets for the homemaking services which permitted her husband to devote his undivided attention to the building up of the business.

There are three landmark cases in which this has occurred, one of which involved a lawyer, one an architect and one a businessman.⁶ The architect had a net worth of \$2.8 million; his wife was awarded \$300,000 for her indirect contributions to his efforts in addition to half the family assets and a further share of the non-family assets resulting from direct contributions. In the businessman's case, the wife was awarded one-quarter of an income property with an equity of about \$180,000 for her direct contributions, and a further quarter of that property for her

homemaking services during the marriage. This was in addition to her share of family assets. The lawyer's wife received an increased share of the family assets equivalent to a 25 per cent interest in the non-family assets. The court made this award for two reasons: to recognize the contribution the wife had made by assuming all household and child care responsibilities so that her husband could devote his entire attention to his law practice, and to compensate the wife for the fact that she had not had the opportunity to earn income and acquire property of her own.

The provisions of the Act relating to division of property appear to be achieving the purposes stated in the Act itself: the orderly and equitable settlement of the affairs of the spouses on the breakdown of their partnership and the recognition of the joint contribution by the spouses to the assumption of the responsibilities of child care, household management and financial provision.

Matrimonial Home

The matrimonial home is the focal point of family life and is the single most important asset that a couple comes to own. Often the matrimonial home is registered in the joint names of the spouses, but sometimes only one spouse owns the home. Under the old law, it was possible for the registered owner of the matrimonial home to sell it or lease it without the knowledge or consent of the other spouse, even if the other spouse and the children of the marriage were living in the home at the time.

The Family Law Reform Act contains special rules relating to dealings with the matrimonial home. No matter how the title is registered, neither spouse is free to sell, mortgage or lease the home without the consent of the other. The court has the power to dispense with the second spouse's consent if it is unreasonably withheld or if it cannot be obtained by reason of illness or absence. To this point there have not been any decisions on the dispensing with consent that have come to the attention of the ministry. From the number of telephone calls and letters, however, there is no doubt that the requirement of spousal consent to dealings with the home has substantially altered real estate conveyancing practices in Ontario. Real estate agents, lawyers and home owners all seem to be keenly aware of

the new Act and are extremely careful when dealing with residential property to involve both spouses in the transaction at an early stage so that the required consent does not become a sudden obstacle late in the transaction.

A spouse may also obtain an order for exclusive possession of the home if the best interests of the child require it or if other provision for shelter is not adequate. Such an order results in the postponement of the sale of the home until the order expires. The cases where an exclusive possession order has been granted involve the need for stability in the life of a child.⁷ The exclusive possession order is far from automatic, and the spouse who seeks it must satisfy the court that it is justified.⁸

Support Obligations

Under the old law, entitlement to support before a divorce was determined on the basis of a series of black and white principles, with no flexibility to meet the reality of the spouses' situation. A husband was never entitled to support, no matter how needy he was or how wealthy his wife was. A wife had to prove her husband guilty of adultery, cruelty or desertion in order to establish her right to support. A husband who could show his wife was guilty of adultery, cruelty or desertion did not have any obligation to provide support. A man and woman living together in a relationship outside marriage never had any support rights or obligations, no matter how long their relationship had lasted or what kind of economic dependency had been created.

The Family Law Reform Act has changed all of that. Now both sexes have the same support rights and obligations, based on the means and the needs of the parties. The question of matrimonial misconduct does not enter into the equation except in the most extreme cases where there is a course of conduct so unconscionable as to constitute an obvious and gross repudiation of the relationship. To date we have not seen any case where the conduct of a spouse affected the outcome.

Persons cohabiting outside marriage are treated as if they were married for support only (they are not subject to the property sharing rules laid down by the Act) and only if they have lived together continuously for five years or if they

have lived in a relationship of some permanence and have a child of their union. A separation for a short time does not interrupt the continuity of cohabitation where the intention to make a common household is not broken.⁹ Intention is also an important element in determining whether a couple have lived in a relationship of some permanence. In one case, actual cohabitation lasted only six weeks, but the intention of the parties tipped the balance in favour of a finding that their relationship was of some permanence.¹⁰

The ministry has heard of only one case where a husband has obtained support from his wife because he was needier than she was and she had the means to pay support.¹¹ There have also been some cases where a wife was denied support because she had means of her own.¹²

There have been some interesting cases where the court has limited the duration of a support order or reduced the amount with the passage of time.¹³ This arises from the obligation stated in the Act for each spouse to be self supporting as far as reasonably possible.

One of the features of the support provisions of The Family Law Reform Act is the enforcement system contained in the Act and in the rules and procedures of the family courts across the province. The clerk of the court is empowered to enforce support orders at the request of the person receiving the support. When the request is received, the court staff begins monitoring payments under the order and sends out reminders if the payments fall behind. If the arrears continue to mount, the clerk requires the debtor to appear and explain the default before a judge. The judge can decline to enforce the order if satisfied that the debtor really cannot afford to pay it. Otherwise, however, the judge can order the debtor to jail for willful refusal to pay (a sanction that is seldom used) or order the debtor to provide security for the payments such as a mortgage on a house. The most effective remedy appears to be an attachment order — an order requiring the debtor's employer to deduct the support payments from the debtor's pay and remit them directly to the court. Attachment orders are in widespread use and have been a very convenient and effective method of assuring prompt and regular support payments.

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Domestic Contracts

"Domestic contracts" is a new term in our law. It stands for three kinds of contracts: marriage contracts, separation agreements and cohabitation agreements. Marriage contracts are not part of Ontario's legal tradition but have been very common in Quebec and many European countries. A man and woman may make a marriage contract before or during their marriage to set out the property and support rules that will govern them, as well as any other matters they choose to make part of the bargain. Separation agreements accomplish the same thing when a couple — married or not — end their relationship. Cohabitation agreements are the equivalent of a marriage contract for a man and woman who are living together but are not married to each other. A domestic contract is a legally binding document which prevails over the rules of The Family Law Reform Act, subject to three important exceptions. The parties cannot agree to support terms that are unconscionable or that make one of the parties a public charge. They cannot expect to see a contract enforced if it is contrary to the best interests of their children. Finally, a married couple cannot agree (unless they are separated) to waive the requirement of consent by the other spouse to a dealing with the matrimonial home.

Separation agreements have been very widely used for many years, but marriage contracts and cohabitation agreements are new developments here in Ontario. Both have become relatively common in the 15 months since The Family Law Reform Act came into force, though their use remains confined to a small minority of cases, according to reports from family law practitioners.

Conclusion

The ministry's monitoring of court cases decided under The Family Law Reform Act shows that the Act appears to be operating in accordance with the intentions of the Legislature. It has made the economic assumptions of marriage and marriage-like relationships correspond more with the concept of a partnership of equals, each with his or her own responsibilities and rights. The matrimonial property rules give financial recognition to the non-economic contributions of the homemaker, as well as providing compensation for specific contributions by one

spouse to the building up of a business owned by the other.

At the same time, support orders have been made on an evaluation of economic factors, without regard to matrimonial misconduct, which is more likely to be a symptom of marriage breakdown than the actual cause of it. However, support orders are now made with an awareness of the obligation of both spouses to take measures to become self supporting where reasonably possible. This results in orders that are of limited duration or that are reduced over time in many cases.

The ministry will continue to study the decisions of the courts under The Family Law Reform Act to see whether any fine tuning of the Act's machinery is required as we gain more experience with it.

Footnotes

- ¹Bodnar v. Bodnar, January 5, 1979, County Court.
Doroshenko v. Doroshenko, April 19, 1979, County Court.
O'Reilly v. O'Reilly, February 9, 1979, Supreme Court of Ontario.
Sepe v. Sepe, December 1, 1978, County Court.
- ²Asto v. Asto, July 16, 1979, Supreme Court of Ontario.
Duncan v. Duncan, May 31, 1979, Unified Family Court.
Rusin v. Rusin, August 21, 1978, Supreme Court of Ontario.
- ³Dittmer v. Dittmer, December 13, 1978, County Court.
Gilbert v. Gilbert, June 22, 1979, County Court.
- ⁴Skweres v. Skweres, October 18, 1978, Supreme Court of Ontario.
- ⁵Boydell v. Boydell, June 1, 1978, Unified Family Court.
Brown v. Brown, April 25, 1979, Supreme Court of Ontario.
Cook v. Cook, November 6, 1978, Supreme Court of Ontario.
Kastrau v. Kastrau, November 1, 1978, Unified Family Court.
Leeder v. Leeder, September 22, 1978, Supreme Court of Ontario.
McIntyre v. McIntyre, March 30, 1979, Supreme Court of Ontario.
Meszaros v. Meszaros, November 6, 1978, Supreme Court of Ontario.
Nattress v. Nattress, November 8, 1978, County Court.
Silverstein v. Silverstein, June 2, 1978, Supreme Court of Ontario.
- ⁶Bregman v. Bregman, August 11, 1978, Supreme Court of Ontario.
Silverstein v. Silverstein, June 2, 1978, Supreme Court of Ontario.

- Weir v. Weir, July 11, 1978, Supreme Court of Ontario.
- ⁷Campbell v. Campbell, July 4, 1978, Supreme Court of Ontario, Master.
- Cicero v. Cicero, June 15, 1978, Unified Family Court.
- Fisher v. Fisher, July 25, 1978, Supreme Court of Ontario, Master.
- Janssen v. Janssen, April 20, 1979, County Court.
- Krivas v. Krivas, May 15, 1979, Provincial Court (Family Division).
- Langtvætt v. Langtvætt, August 4, 1978, Supreme Court of Ontario.
- Miller v. Miller, May 31, 1978, Provincial Court (Family Division).
- Prior v. Prior, September 21, 1978, Supreme Court of Ontario.
- Ramsay v. Ramsay, February 20, 1979, Supreme Court of Prince Edward Island. Prince Edward Island has legislation virtually identical to that of Ontario.
- Sager v. Sager, August 30, 1978, Supreme Court of Ontario.
- ⁸Geers v. Geers, February 22, 1979, Unified Family Court.
- ⁹Anonymous, August 17, 1978, Provincial Court (Family Division).
- Feehan v. Attwells Sr., February 19, 1979, County Court.
- Russell v. Sanderson, April 24, 1979, Court of Appeal.
- ¹⁰Labbe v. McCullough, April 1, 1979, Provincial Court (Family Division).
- ¹¹Watts v. Watts, June 5, 1979, Provincial Court (Family Division).
- ¹²Krivas v. Krivas, May 15, 1979, Provincial Court (Family Division).
- McClelland v. McClelland, June 4, 1979, Provincial Court (Family Division).
- Ramsay v. Ramsay, February 20, 1979, Supreme Court of Prince Edward Island.
- Wood v. Wood, Provincial Court (Family Division).
- ¹³Audova v. Audova, February 20, 1979, Provincial Court (Family Division).
- Bravo v. Bravo, June 15, 1979, Provincial Court (Family Division).
- Illingworth v. Hyatt, November 2, 1978, Provincial Court (Family Division).
- Kastrau v. Kastrau, November 1, 1978, Unified Family Court.
- King v. King, May 30, 1979, Provincial Court (Family Division).
- Shinton v. Shinton, April 18, 1979, Supreme Court of Ontario.
- Snedker v. Snedker, June 6, 1978, Provincial Court (Family Division).
- Wonch v. Sakeris, December 8, 1978, Provincial Court (Family Division).

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Children and the Law in Ontario: The United Nations' Declaration of the Rights of the Child: an Ontario Perspective

On the occasion of the International Year of the Child and the twentieth anniversary of the United Nations Declaration of the Rights of the Child, an analysis of the status of the child in Ontario law seems not only appropriate but necessary. As stated in the preamble of the Declaration, "mankind owes to the child the best it has to give". Accordingly, each of us is under a duty to assess continuously our success in fulfilling this obligation. That this is a duty not restricted to governments is also recognized in the Declaration, which calls upon parent and upon men and women as individuals as well as upon voluntary organizations, local authorities and national governments to recognize and observe the rights of children. This point is further emphasized by that part of the Declaration that recognizes that the rights of children may be secured not only by legislation but also by "other means progressively taken", in accordance with the ten principles of the Declaration. As we shall see, to a very large extent in the case of "other measures", it is primarily in program content rather than legislation that the rights of children proclaimed in the Declaration must be expressed.

Because of the broad range of the rights and needs of children, the direct responsibility of the Ontario Ministry of the Attorney General does not extend to all areas of children's rights. However, as it is part of the historical office of the Attorney General to safeguard the rights and liberties of all the citizens in his jurisdiction, the Attorney General has an overriding interest in ensuring the recognition and protection of all fundamental rights. In many cases where other ministries are preparing legislation affecting the rights of children the Ministry of the Attorney General participates in interministerial committees. The discussion which follows, while of necessity referring to the legislation and programs of other ministries and levels of government, will focus on areas bearing most directly on the role and responsibilities of the Attorney General.

PRINCIPLE 1

The child shall enjoy all the rights set forth in this Declaration. Every child, without any exception whatsoever, shall be entitled to

these rights, without distinction or discrimination on account of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, whether of himself or of his family.

This principle declares that access to rights set out in the Declaration shall be available without discrimination. In Ontario, The Ontario Human Rights Code prohibits discrimination because of "race, creed, colour, sex, marital status, nationality, ancestry or place of origin". At present the Code is administered by the Ministry of Labour. While the prohibitions contained in the Code apply only to certain aspects of discrimination, such as admission to public accommodation, services and facilities, housing and employment, The Ontario Human Rights Code serves as a powerful and effective declaration of Ontario's policy with respect to discrimination in all aspects of community living. It goes without saying that no Ontario legislation permits discrimination on these grounds. It must always be kept in mind that the United Nations' Declaration was prepared to apply to more than 100 countries, some of which may actually permit types of discrimination unthinkable in Ontario and Canada.

Following a report, entitled "Life Together", by the Ontario Human Rights Commission, the government has been conducting an extensive review of The Ontario Human Rights Code, with a view to expanding the categories of prohibited discrimination and widening the areas of applicability and thus providing even greater protection for citizens in Ontario.

Two rights in the United Nations' Declaration that are not included in The Ontario Human Rights Code are language and birth. In the matter of language, Ontario has a positive commitment to provide bilingual services wherever numbers warrant. In this regard perhaps the most important provisions in the context of children's rights are found in The Education Act, which requires school boards to provide for the use of the French language in instruction where warranted by the numbers of French-speaking students requesting it.

In the Children's Services Division of the Ministry of Community and Social Services, which co-ordinates provision of social and protective

services to children, improvement of services to Franco-Ontarians was made a priority when the Division was established in July, 1977, and several hundred thousand dollars have gone toward upgrading the capability for providing services in the French language.

Children involved in legal proceedings most often are involved in family court. The Ministry of the Attorney General is expanding its French language services in family court on a needs basis. At present, French language services are available in family court in Sudbury and Ottawa-Carleton.

Discrimination against children on account of birth is one of the most pervasive forms of discrimination against children in the common law. The children discriminated against are those born outside marriage and labelled illegitimate. For centuries children of unmarried parents have been denied the same legal status as children whose parents are married. One of the most obvious distinctions was that they could not inherit their parents' estate on the same grounds as children whose parents were married. If anything contravenes the dignity and worth of the human person as proclaimed in the United Nations' Declaration, it is the notion of an illegitimate child. Children are neither lawful nor unlawful. Whatever society's disapprobation for the conduct of the parent of the child, it is simply unjust to punish the child for his parents' behaviour.

In The Children's Law Reform Act, 1977, introduced by the Attorney General, Ontario acted with great humanity and justice and abolished the status of illegitimacy and declared that all children shall have the same legal status regardless of whether they were born within or outside marriage. Ontario was the first Canadian province to take this step. Now the Ontario legislation is being looked to as a model for the development of a uniform statute for all Canadian jurisdictions. To leave no doubt about the rights of children born outside marriage The Succession Law Reform Act, 1977, specifically provides that children born outside marriage are to have the same legal rights as children born in marriage in matters relating to the inheritance of their parents' property and The Family Law Reform Act, 1978, specifically provides that regardless of whether they were born within or outside of marriage children have the same

rights to financial support from their parents. Both of these statutes are also the responsibility of the Attorney General.

PRINCIPLE 2

The child shall enjoy special protection and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity. In the enactment of laws for this purpose, the best interests of the child shall be the paramount consideration.

This is a very general principle that deals with a broad range of matters, most of which are dealt with more specifically under other principles in the Declaration and will be discussed in this paper as they arise. Two important points, however, may be brought out under this principle. The first concerns special protection for children and the second relates to the best interests standard in legislating in respect of children.

Special Protection

The question of special protection for children is one of the most contentious issues in the current debate about children's rights. On the one hand there are those who argue that the creation of special protection for children is paternalistic and prevents children from fully exercising their rights and responsibilities. According to this view what is needed is not more protection for children but less protection so that children have more adult rights.

On the other side are those who advocate more protection for children because of the child's inherent vulnerability to the adult's power — physical, economic, and intellectual. It can be argued that because children are unable to fulfill their own needs, especially in their early years, they need special assistance and protection to reach their full potential as adults.

As is often the case in such debates there are elements of truth on both sides. Childhood as a category deserving rights and protection does not have an objective, static, or permanent content that can be shown to be irrelevant to questions of legal rights. Other categories, such as sex, race and nationality, refer to uniform,

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universal concepts that can be proven to be unreasonable grounds for discrimination in law. Childhood embraces newborn infants and almost emancipated seventeen year olds. While his status as a child remains the same the child's needs and abilities change dramatically as he matures. Accordingly, at some point in his life he may require special protection and at another time he may need full adult rights. However, as some experts have pointed out, 'the broad assertion that age is irrelevant to legal autonomy inescapably collides with biological and economic reality'.

An excellent example of recent legislation that combines these two views is the new Child Welfare Act, 1978, administered by the Ministry of Community and Social Services. No child, whatever his age, is more in need of protection than the child who is abused by his parents. This new legislation makes professional people, such as teachers and doctors, liable to a fine if they fail to report a suspected case of child abuse. As a result, children's aid societies will be greatly assisted in detecting child abuse cases.

The legislation also recognizes that where a children's aid society is intervening in any case where the child is alleged to be in need of protection the child may have independent views and interests that differ from those of both the children's aid society and the child's parent. Accordingly, provision is made in the Act for the child to obtain his own lawyer in appropriate circumstances. In this way the child can participate on the same basis as the adult parties in proceedings which will make vital decisions about his future. The Ministry of the Attorney General is helping to implement this right by developing a program, through the office of the Official Guardian, for selecting and training lawyers for representing children in these cases. In Ontario the Official Guardian has always been involved in ensuring that children's legal rights are protected in matters relating to their property. However, in recent years the Official Guardian has increasingly been involved in providing legal representation for children in child welfare and custody cases.

Best Interests Of The Child

In Ontario, no principle concerning children has more support than the principle that the best interests of children should be the paramount

consideration in enacting laws which affect them. This has not always been so, however, because the law traditionally recognized an almost proprietary right of the parents in relation to their children. Nevertheless the best interests principle is an idea whose time has come and now seems firmly entrenched in the law of Ontario.

One concern about the best interests principle is that although it is intended to be a child-centered objective test it can too easily be used to justify the adult decision maker's subjective view. As a result attempts are being made to provide statutory guidelines or criteria that the decision maker ought to consider when assessing child's best interests. When legislation reforming provincial child custody law is introduced, the Attorney General intends to propose that guidelines be enacted so that in determining the best interests of the child the court will be directed to consider such factors as the child's views, his emotional and psychological relationships in the family, the parenting abilities of the parties, and the child's need for continuity and stability in his home environment. A statutory elaboration of the best interests of the child in child welfare proceedings was included in the Ministry of Community and Social Services' Child Welfare Act, 1978.

PRINCIPLE 3

The child shall be entitled from his birth to a name and a nationality.

Under Ontario law, provision is made for every child to be given a name. The relevant legislation is The Vital Statistics Act, administered by the Ministry of Consumer and Commercial Relations. Generally, the parents have a duty to register the birth of their child with a given name and surname within 30 days after the birth of the child. In respect of foundlings, the Registrar General has a duty to establish a surname and given name for the child.

Considerable flexibility is provided in naming children. If the child is born in a marriage, he will have the surname of the mother's husband or he may have a hyphenated surname made from a combination of the surnames of his mother and her husband, in whichever order they prefer. Where the child is born outside marriage, the child will bear the mother's surname, unless she

and the father agree that the child will have the father's surname or a hyphenated combination of their surnames.

The law relating to changes of name is admittedly outmoded. While it is not against the law to use any name one wishes, so long as there is no fraudulent purpose for the name change, the only means of changing a name for all legal purposes is to apply under The Change of Name Act, which does not provide the flexibility demanded by contemporary society. The Ontario Law Reform Commission has made comprehensive proposals for reforming this law and it is expected that the Act, which is administered by the Ministry of the Attorney General, will be overhauled before long. Although it is hoped to make formal changes of name much simpler, names have very great emotional significance and many difficult problems can arise. One of these problems is to balance the interests of a child in retaining his father's surname with his interest in assuming his stepfather's surname when his mother remarries.

With respect to nationality, the Citizenship Act, 1976, an Act of the federal parliament, provides that a child born in Canada is a Canadian citizen.

PRINCIPLE 4

The child shall enjoy the benefits of social security. He shall be entitled to grow and develop in health; to this end, special care and protection shall be provided both to him and to his mother, including adequate pre-natal and post-natal care. The child shall have the right to adequate nutrition, housing, recreation and medical services.

In Ontario this principle is recognized primarily through the provision of welfare and health programs, such as the Ontario Health Insurance Plan. It is not within the scope of this paper to detail the wide range of government programs providing income supplements, public housing, day care services, public health services, and so on. Implementation of the principle can only be measured on a relative scale. Recent government statistics indicate that among seven representative industrialized nations, including Sweden, the United Kingdom and the United States, Ontario ranked second best with regard to health and best in terms of housing.

One point referred to in this principle is the child's right to medical services. This is a matter which is of direct concern to the Ministry of the Attorney General because it relates to the legal capacity to consent to medical treatment. The Ministry of the Attorney General has been participating on an interministerial committee (Health, Community and Social Services, and Attorney General) in a thorough examination of the problems relating to consent to surgical and other medical procedures for minors. For many years, there has been uncertainty in the medical profession and among the public regarding the capacity of a minor to consent to medical treatment independent of his parents. Although the law seems to have developed the rule that a child of any age may consent to medical treatment if he can appreciate the nature and consequences of the proposed treatment and if he is capable of making a free and informed decision, recent practice has been to regard sixteen years as the minimum age at which a minor can give a consent independent of his parents. It is expected that following the consideration of these and other issues concerning consent to medical treatment that legislation will be enacted to clarify the rights of children in this area.

PRINCIPLE 5

The child who is physically, mentally or socially handicapped shall be given the special treatment, education and care required by his particular condition.

Recognition of this principle is again achieved for the most part through social and health services programs of the Ministry of Community and Social Services, The Ministry of Education, and the Ministry of Health. Through these ministries, programs and services are available to assist handicapped children. Children's mental health centres, group homes, facilities for the mentally retarded, schools for the deaf are just a few of the services available.

Parents, of course bear the first responsibility in seeking out these services on behalf of their handicapped child. The Child Welfare Act, 1978, is available to ensure that parents fulfill their obligation in this regard.

Background Papers

Under the Act, a child may be found in need of protection if his parent neglects or refuses to provide proper medical or other treatment necessary for the child's health or well-being, if his parent endangers his emotional or mental development, or if his parent endangers his life, health or morals. A child who is found by a court to be in need of protection may be made a ward of a children's aid society for the purposes of providing proper care and treatment.

PRINCIPLE 6

The child, for the full and harmonious development of his personality, needs love and understanding. He shall, wherever possible, grow up in the care and under the responsibility of his parents, and, in any case, in an atmosphere of affection and of moral and material security; a child of tender years shall not, save in exceptional circumstances, be separated from his mother. Society and the public authorities shall have the duty to extend particular care to children without a family and to those without adequate means of support. Payment of State and other assistance towards the maintenance of children of large families is desirable.

In Ontario, as elsewhere in Canada, the desirability of encouraging and strengthening the family as the fundamental unit of our society is beyond dispute. Obviously the law cannot compel parents to love and understand their children but it can protect the family framework in which the parent and child relationship develops. Accordingly, in Ontario, The Infants Act declares that 'the father and mother of a child are joint guardians and are equally entitled to the custody, control and education of the child'. However, as our law has developed, the parents' right to custody is combined with a duty to act in the best interests of their child. In a dispute about custody, even between the parents and a third party, such as the grandparents or a step-parent, the best interests of the child will be the paramount consideration.

The duty of parents to provide love and affection for the child is further enforced by the provisions of The Child Welfare Act, 1978, that permit a society to remove a child from his home where the child is found in need of protection because the parents have failed to meet minimum

community standards of parenting. However, in cases where it is necessary for the society to intervene to protect a child, the children's aid society must consider whether it is possible to assist the child while still in the care of his parents.

As mentioned in the discussion of Principle 2, the Attorney General intends to propose comprehensive reform of the law relating to custody of children, with statutory guidelines to assist in assessing the best interests of the child. Foremost among the factors listed would be the love, affection and emotional ties that exist between the child and his parents.

One notion that has diminished in importance in the 20 years since the United Nations' Declaration was first proclaimed is the notion that a child of tender years shall not, save in exceptional circumstances, be separated from his mother. In recent years Canadian courts have quite consistently stated that this notion is not a rule of law but a matter of common sense to be weighed with all other factors. More and more the courts have recognized that fathers are interested in and capable of meeting the needs of their children. Accordingly, having regard to the principle that the best interests of the child is the paramount consideration, in an appropriate case a father may be awarded custody of his child, even if the child is of tender years.

In Ontario, special concern for children without families is met through the provisions of The Child Welfare Act, 1978. The legal status of an adopted child is the same as if he had been born to the persons who adopt him. The success of Ontario's adoption services is attested to by the fact that there are many more families applying to adopt children than there are children in need of adoption and by the high rate of success that has been achieved in arranging adoptions for children with special needs.

In terms of financial support, it has always been the law in Ontario that parents are responsible for financial support of their children. This principle was recently strengthened by a general declaration of that obligation in The Family Law Reform Act, 1978, administered by the Ministry of the Attorney General. The Act declares:

Every parent has an obligation, to the extent the parent is capable of doing so, to provide support in accordance with need, for his or

her child who is unmarried and is under the age of eighteen years.

Where the parents do not have sufficient income to meet the basic financial needs of their children, public assistance is available through The General Welfare Assistance Act and The Family Benefits Act to support children in their own homes.

Additional financial assistance is provided for children of all families by the federal government under its family allowance scheme.

PRINCIPLE 7

The child is entitled to receive education, which shall be free and compulsory, at least in the elementary stages. He shall be given an education which will promote his general culture, and enable him, on a basis of equal opportunity, to develop his abilities, his individual judgement, and his sense of moral and social responsibility, and to become a useful member of society.

The best interests of the child shall be the guiding principle of those responsible for his education and guidance; that responsibility lies in the first place with his parents. The child shall have full opportunity for play and recreation, which should be directed to the same purposes as education; society and the public authorities shall endeavour to promote the enjoyment of this right.

The child's right to education is comprehensively provided for under The Education Act, 1974, administered by the Ministry of Education. Education is free and compulsory until the child reaches the age of sixteen, subject to a special provision for early school leaving at age fourteen.

Not only does the curriculum content prescribed by the Ministry of Education provide the opportunity for formal instruction in culture, moral and social responsibility, but also the teacher is under a duty declared in The Education Act, "to inculcate by precept and example respect for religion and the principles of Judaeo-Christian morality and the highest regard for truth, justice, loyalty, love of country, humanity, benevolence, sobriety, industry, frugality, purity, temperance and all other virtues". The duty of parents to provide

education and guidance in accordance with the best interests of the child is one element of the best interests principle, which has been discussed previously in relation to other Principles.

The right of a child to play and recreation may be a somewhat difficult concept to understand because it is taken so much for granted by citizens of this country. It becomes more meaningful in the context of a declaration of rights of the child that was prepared to apply internationally, including nations where it may be common for children to be required to work either in the family or for wages when they are not in school. Certainly, apart for prohibiting virtual slavery or forced confinement it is far from clear how the right to play and recreation could be legislated. The need to play which is recognized as so important in a child's psychological development is not easily comprehensible as a legal concept apart from the child's right to protection of his emotional and mental health and development, which right is recognized in Ontario by the wide array of social and health programs for children.

PRINCIPLE 8

The child shall in all circumstances be among the first to receive protection and relief.

This Principle is recognized in Ontario by the provisions of The Child Welfare Act, 1978, that empower authorized children's aid society workers, as well as the police, to enter any premises without a warrant and with force if necessary, to apprehend and take to a place of safety any child if there are reasonable and probable grounds to believe that he is in need of protection. Although the power of entry without a warrant is one of the strongest powers given under our law for the enforcement of rights, it is easily justified for the protection of children. The Child Welfare Act further provides that every children's aid society shall be operated for the purposes of protecting children.

The special duty placed on professional persons, such as doctors and teachers, to report suspected child abuse also recognizes the primacy that is given to the protection of children.

Background Papers

PRINCIPLE 9

The child shall be protected against all forms of neglect, cruelty and exploitation. He shall not be the subject of traffic, in any form.

The child shall not be admitted to employment before an appropriate minimum age; he shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education, or interfere with his physical, mental or moral development.

The law protecting children from neglect, cruelty and exploitation has been referred to in the discussion of a number of the foregoing Principles.

The matter of trafficking in children is another issue that has little, if any, relevance in Canada. In any event the power under The Child Welfare Act, 1978, to apprehend a child in need of protection could be used to intervene to protect the child against trafficking. The Child Welfare Act also specifically prohibits payments, except for legitimate expenses, in relation to the placement of children for adoption. Furthermore the federal Criminal Code creates offences relating to kidnapping, procuring, defilement of minors, abandoning of children and so on, that could be used to deal with specific acts of trafficking.

Although there is no general statute in Ontario that sets the absolute minimum age at which a child may be employed, our legislation does protect a child from taking employment which would prejudice his health and education, or interfere with his physical, mental or moral development.

In the context of the United Nations Declaration it is likely that employment refers to full-time employment. Part-time employment, such as delivering newspapers, shovelling snow and cutting grass, and particularly summer employment for older children, is usually regarded in Ontario as much more likely to benefit a child than to harm him. Indeed the Ontario government actively supports summer employment programs for young persons.

In extreme cases where a parent requires or permits a young child to work, The Child Welfare Act, 1978, could be used to intervene and protect the child. However, for all practical purposes the

minimum age at which a child may take full-time employment is sixteen years. This is the result of The Education Act, 1974, which requires every child to attend school until he attains the age of sixteen and makes it an offence for a person to employ a child who is required to attend school. Accordingly, it is practically impossible for a child under sixteen years to engage in full-time employment. One notable exception to this rule is the provision made under The Education Act, 1974, for early school leaving. When a child has attained the age of fourteen years, regulations made under the Act permit his parents to apply to the principal of his school to have the child excused from attendance at school in order to follow another program, which could be full-time employment. Where such permission is granted the child remains under the general supervision of The Education Act, 1974, and is excused from school only so long as he pursues an approved program.

The Industrial Safety Act, 1971, administered by the Ministry of Labour, prohibits employment of children under the age of fifteen in factories and prohibits employment of children under fourteen in industrial establishments, which includes shops and offices. A few statutes regulating specific industries, such as construction, mining and logging, expressly prohibit the employment of persons under a minimum age, usually sixteen. A child must be sixteen years of age before he can enter an apprenticeship.

The Child Welfare Act, 1978, prohibits children under the age of sixteen from working between 9:00 o'clock at night and 6:00 o'clock in the morning in any place where the public has access. However, where the children's aid society approves, a special licence may be obtained to permit a child to take part in public entertainment, such as a theatrical production.

According to the law applicable in Ontario it appears that a child is entitled to keep his own earnings; his wages do not belong to his parents.

PRINCIPLE 10

The child shall be protected from practices which may foster racial, religious and any other form of discrimination. He shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood, and in full

consciousness that his energy and talents should be devoted to the service of his fellow men.

This Principle is an expression in more general terms of Principle 1 regarding freedom from discrimination. It also gives further elaboration and meaning to the concept of the best interests of the child.

An Ontario Bill of Rights for Children

This necessarily brief analysis of the status in Ontario of the United Nations Declaration of the Rights of the Child demonstrates the strong commitment of Ontario citizens and legislators to protecting the rights of children. Indeed, the rights of children in Ontario extend well beyond the rights declared in the United Nations Declaration and include, for example, special rights in relation to contracts, to protection of their property, and to treatment when charged with a criminal offence. However, notwithstanding the many rights guaranteed children in Ontario today there is no Ontario Bill of Rights for Children. The moral strength of the United Nations declaration creates a strong temptation to propose that the many rights that exist in Ontario be consolidated and articulated in a Children's Bill of Rights. Our desire to enforce ethical standards of justice and fair treatment for children evokes a reflexive response that "there ought to be a law".

Unfortunately a more critical analysis of our feeling reveals that there are too many unanswered, and perhaps unanswerable, questions standing in the way of any immediate enactment of a Children's Bill of Rights. These are but a few of the questions:

- How effectively can the law compel people to be fair and just to children if there is no

widespread public commitment to observe and respect the rights of children?

- Conversely, if the general practice of individuals and public authorities is to treat children justly and fairly, is a bill of rights necessary?
- If children's rights are increased, will their responsibilities be increased also?
- What role should children play in determining what should be included in a Children's Bill of Rights?
- Do children want a bill of children's rights or do they want access to adult rights?
- What is the appropriate remedy for a child whose rights are breached?
- Should all children have the same rights regardless of age and abilities?
- How would any additional costs involved in enforcing a Children's Bill of Rights be met?
- What would be the impact of a Children's Bill of Rights on family unity and family autonomy?
- Should a Children's Bill of Rights be binding on the Legislature in enacting all legislation, so that the Legislature will be limited in its ability to perform its responsibilities?

As much as a Children's Bill of Rights attracts our moral and emotional approbation, until there is a clear public consensus on these and many other questions it seems more appropriate to concentrate our efforts and energies on developing an infrastructure of legislation relating to children that recognizes the specific rights and needs of children and deals with them according to principles of fairness and justice. Ultimately true justice and fair treatment for children will exist in our society only when each one of us recognizes our personal responsibility to treat children with the respect and dignity to which they are entitled as human beings.

Appendix

Acts Administered by the Ministry of the Attorney General

Absconding Debtors Act
Absentees Act
Accidental Fires Act
Accumulations Act
Administration of Justice Act
Age of Majority and Accountability Act, 1971
Aliens' Real Property Act
Anglican Church of Canada Act, 1979
Anti-Inflation Agreement Act, 1976
Arbitrations Act
Architects Act
Assessment Review Court Act, 1972
Assignments and Preferences Act

Bail Act
Barristers Act
Blind Persons' Rights Act, 1976
Bulk Sales Act
Business Records Protection Act

Change of Name Act
Charitable Gifts Act
Charities Accounting Act
Children's Law Reform Act, 1977
Commissioners for Taking Affidavits Act
Compensation for Victims of Crime Act, 1971
Constitutional Questions Act
Conveyancing and Law of Property Act
Costs of Distress Act
County Court Judges' Criminal Courts Act
County Courts Act
County Judges Act
Creditors' Relief Act
Crown Administration of Estates Act
Crown Agency Act
Crown Attorneys Act
Crown Witnesses Act

Devolution of Estates Act
Disorderly Houses Act
Dominion Courts Act

Escheats Act
Estreats Act
Evidence Act
Execution Act
Expropriations Act
Extra-Judicial Services Act

Factors Act
Family Law Reform Act, 1978
Fines and Forfeitures Act
Fraudulent Conveyances Act
Fraudulent Debtors Arrest Act
Frustrated Contracts Act

Gaming Act
General Sessions Act

Habeas Corpus Act
Hospitals and Charitable Institutions Inquiries Act
Hotel Registration of Guests Act

Infants Act
Innkeepers Act
Interpretation Act

Judges' Orders Enforcement Act
Judicature Act
Judicial Review Procedure Act, 1971
Juries Act, 1974
Justices of the Peace Act

Landlord and Tenant Act
Law Society Act
Legal Aid Act
Libel and Slander Act
Limitations Act
Lord's Day (Ontario) Act

Master and Servant Act
Matrimonial Causes Act
Mechanics' Lien Act
Mental Incompetency Act
Mercantile Law Amendment Act
Ministry of the Attorney General Act
Minors' Protection Act
Mortgages Act
Municipal Conflict of Interest Act, 1972

Negligence Act
Notaries Act

Ontario Law Reform Commission Act
Ontario Municipal Board Act

Partition Act
Partnership Act
Pawnbrokers Act
Perpetuities Act
Petty Trespass Act

Powers of Attorney Act
Proceedings Against the Crown Act
Professional Engineers Act
Property and Civil Rights Act
Provincial Court (Civil Division) Project Act, 1979
Provincial Courts Act
Provincial Offences Act, 1979
Public Accounting Act
Public Authorities Protection Act
Public Halls Act
Public Inquiries Act, 1971
Public Institutions Inspection Act, 1974
Public Officers Act
Public Officers' Fees Act
Public Trustee Act

Quieting Titles Act

Reciprocal Enforcement of Judgments Act
Reciprocal Enforcement of Maintenance Orders
Act
Regulations Act
Religious Institutions Act
Religious Organizations' Lands Act, 1979
Replevin Act

Sale of Goods Act
Settled Estates Act

Sheriffs Act
Short Form of Conveyances Act
Short Form of Leases Act
Short Form of Mortgages Act
Small Claims Courts Act
Solicitors Act
Statute of Frauds
Statutes Act
Statutory Powers Procedures Act, 1971
Succession Law Reform Act, 1977
Summary Convictions Act
Surrogate Courts Act

Ticket Speculation Act
Time Act
Trustee Act

Unconscionable Transactions Relief Act
Unified Family Court Act, 1976
University Expropriation Powers Act

Variation of Trusts Act
Vendors and Purchasers Act
Vexatious Proceedings Act
Vicious Dogs Act

Wages Act
Warehousemen's Lien Act
Warehouse Receipts Act

Agencies, Boards & Commissions

Agencies, boards and commissions operating within this Ministry and which have financial and administrative relationships with the Ministry:

Advisory Committee of Public Trustee on Investments
Assessment Review Court
Board of Negotiation
Criminal Injuries Compensation Board
Finance Committee for the Investment of Court Funds
Land Compensation Board
Ontario Law Reform Commission
Ontario Municipal Board
Statutory Powers and Procedures Rules Committee.

Agencies, boards and commissions connected with or working with this Ministry but who do *not* have any financial or administrative relationship with the Government:

Advisory Committee on Legal Aid
Association of Professional Engineers of Ontario
Judicature Act Rules Committee
Judicial Council for Provincial Judges
Law Foundation of Ontario
Law Society of Upper Canada
Provincial Courts (Family Division) Rules Committee
Registration Board of Ontario Association of Architects.

Notes



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